STATE OF CALIFORNIA

STANDARD AGREEMENT

STD 213 (Rev 06/03)

REGISTRATION NUMBER	AGREEMENT NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME (Also referred to as CDPH or the State)

California Department of Public Health

CONTRACTOR'S NAME (Also referred to as Contractor)

2. The term of this Agreement is: October 1, 2015 through September 30, 2019

3. The maximum amount of this Agreement is: $

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of this Agreement.

Exhibit A - Scope of Work	17 pages
Attachment I, Local Agency Specific Services	9 pages
Attachment II, Semi-annual Report Sample	2 pages
Attachment III, RAE Sample	4 pages
Exhibit B - Budget Detail and Payment Provisions	4 pages
Attachment I, Budget	1 page
Attachment II, Detail Worksheet	2 pages
Attachment III, Facility Costs	2 pages
Attachment IV, Invoice Sample	2 pages
Attachment V, ULO Sample	1 page
Exhibit C * - General Terms and Conditions	GTC 610
Exhibit D (F) - Special Terms and Conditions for Federal Funded Service Contracts or Agreements and Grant Agreements	25 pages
Exhibit E - Additional Provisions	5 pages
Exhibit F - Contractor's Release Federal Funded Agreements	1 page
Exhibit G - Information Privacy and Security Requirements	9 pages

Items shown above with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. *These documents can be viewed at http://www.ols.dgs.ca.gov/Standard+Language.*

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only
CONTRACTOR'S NAME *(if other than an individual, state whether a corporation, partnership, etc.)*		
BY *(Authorized Signature)*	DATE SIGNED *(Do not type)*	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		
STATE OF CALIFORNIA		
AGENCY NAME California Department of Public Health		
BY *(Authorized Signature)*	DATE SIGNED *(Do not type)*	
PRINTED NAME AND TITLE OF PERSON SIGNING		☐ Exempt per:
ADDRESS 1616 Capitol Avenue, Suite 74.317, MS 1802, PO Box 997377 Sacramento, CA 95899-7377		

Exhibit A
Scope of Work

1. Service Overview

A. Contractor agrees to provide for the California Department of Public Health, Special Supplemental Nutrition Program for Women, Infants and Children Division (CDPH/WIC Division) the direct services at the local level described herein to operate the Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program) and to comply with all fiscal, administrative and operational requirements as outlined in Federal and State statutes, regulations, policies and procedures, and other communications from the CDPH/WIC Division.

B. The CDPH/WIC Division administers funds provided by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS) for the operation of the WIC Program, which includes separate funding grants for the Breastfeeding Peer Counseling Program (BFPC), and the Farmers' Market Nutrition Program (FMNP) for the State of California. These USDA funded nutrition programs are discretionary, and each provides a specific service to women, infants, and children who are low income and at nutritional risk. The overall goal of the WIC Program is to improve the health status of eligible participants by providing nutritious foods to supplement diets, information on healthy eating, breastfeeding support and referrals to health care services.

C. The purpose of this contract is to provide funds and expectations to support the delivery of services and benefits of the WIC Program to eligible participants through qualified community agencies.

D. The terms of this contract are derived from applicable Federal and State statutes, regulations, policies and procedures as detailed in Exhibit E, Provision 1.

E. The CDPH/WIC Division's Catalog of Federal Domestic Assistance (CFDA) Number is 10.557. The CDPH/WIC Division's CDFA Program Title is Special Supplemental Nutrition Program for Women, Infants and Children.

2. Definitions

This list of definitions is for use with this Agreement.

A. **Applicant** - An individual who has applied to participate in the WIC Program.

B. **BFPC** means Breastfeeding Peer Counseling Program - The BFPC Program is based on the United States Department of Agriculture's (USDAs) Loving Support© Model for a Successful Peer Counseling Program. The BFPC Program utilizes peers to encourage and support WIC mothers to breastfeed their infants via a mother-to-mother connection. The BFPC Program is an enhancement to WIC Program breastfeeding services and support.

C. **Breastfeeding Coordinator** - A designated Competent Professional Authority (CPA) that ensures breastfeeding is promoted and supported at the local agency.

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D. **CDPH/WIC Division** means California Department of Public Health, Special Supplemental Nutrition Program for Women, Infants and Children Division - The Division within the California Department of Public Health that administers and oversees the WIC Program.

E. **Contract Manager** - The CDPH/WIC Division staff assigned to monitor compliance with the terms of the Agreement.

F. **Contractor** - A local government or private, non-profit organization that provides WIC Program services according to the terms of this Agreement with the CDPH/WIC Division. A Contractor is also referred to as a WIC local agency.

G. **CPA** means Competent Professional Authority - Per Federal Regulation 7 CFR 246.2, a CPA is an individual on the staff of the local agency authorized to determine nutritional risk and prescribe supplemental foods. The following persons are the only persons the State agency may authorize to serve as a competent professional authority: Physicians, nutritionists (bachelor's or master's degree in Nutritional Sciences, Community Nutrition, Clinical Nutrition, Dietetics, Public Health Nutrition or Home Economics with emphasis in Nutrition), dietitians, registered nurses, physician's assistants (certified by the National Committee on Certification of Physician's Assistants or certified by the State medical certifying authority), or State or local medically trained health officials.

H. **Designee** - A person who has been designated by the Contractor's WIC Director and is authorized to sign an invoice on behalf of the Contractor.

I. **Dual Funded Positions** - Positions which are funded using Nutrition Services and Administration funds and funding from another source.

J. **EBT** means Electronic Benefit Transfer - An electronic system that allows the issuing of food benefits via a magnetically encoded payment card.

K. **Facility Sites** - A site that is used by the Contractor to administer the WIC Program. Types of facility sites include WIC Clinic Sites (including fixed and satellite sites), Administrative Sites, Training Centers, Warehouses and Storage Areas.

L. **FFY** means Federal Fiscal Year - October 1 through September 30.

M. **FMNP** means Farmers' Market Nutrition Program - A Federally-funded and regulated program that provides resources in the form of fresh, nutritious, unprepared foods (fruits and vegetables) from farmers' markets to WIC participants.

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N. **FNS** means Food and Nutrition Service - An agency of the USDA's Food, Nutrition, and Consumer Services. FNS works to end hunger and obesity through the administration of 15 federal nutrition assistance programs, which includes the WIC Program. FNS establishes rules and regulations and oversees the state and local agencies that operate those nutrition assistance programs.

O. **Food Benefits** - A benefit issued to WIC participants for the purchase of WIC supplemental foods at authorized WIC vendors.

P. **INEP** means Individual Nutrition Education Plan - An individualized plan developed for each WIC participant to follow during participation in the WIC Program.

Q. **LAIS** means Local Agency Inventory System - The inventory system used by the WIC Program to track all equipment purchased with WIC funds.

R. **LVL** means Local Vendor Liaison - Local agency employee responsible for establishing and maintaining a working relationship with a set number of WIC authorized vendors as assigned by the CDPH/WIC Division.

S. **MIS** means Management Information System - The CDPH/WIC Division's centralized data processing system used to collect and store information concerning participant eligibility, enrollment, food benefit issuance and redemption for local agencies.

T. **NSA** means Nutrition Services and Administration - The funding provided by USDA that supports the WIC Program.

U. **NSP** means Nutrition Services Plan - The NSP is a tool for the CDPH/WIC Division to use in planning overall WIC Program Nutrition Services. Components of the plan include 1) the review of the effectiveness of current and/or past services, 2) the consideration of the most urgent needs of WIC participants in California, and 3) the planning of activities at the CDPH/WIC Division that will focus on addressing WIC participants' needs in the coming two years.

V. **Nutrition Consultant** - The CDPH/WIC Division staff assigned to provide consultative services related to nutrition and other topics.

W. **Nutrition Coordinator** - A designated CPA that ensures nutrition education delivery is done in accordance with CDPH/WIC Division approved curriculum and messages and in keeping with the WIC participant's personal, cultural, and socioeconomic preferences.

X. **Participant** - An individual who meets all WIC Program eligibility criteria and is enrolled in the WIC Program and receives nutrition benefits.

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Y. **PCE** means Participant-Centered Education - A strength-based approach that places the participant at the center of the education process. Rather than focusing only on participants' problems, risks, or unhealthy behaviors, this approach emphasizes participants' capabilities and strengths regarding their nutrition, health, and referral needs. In PCE, educators work collaboratively with participants to elicit and support their motivation to change, respecting them as the ones who ultimately decide if and when they will learn and/or make a change.

Z. **QAP** means Quality Assurance Plan - A general description of the methodology used to evaluate individual staff performances and areas of program management and operations to include at a minimum certification, nutrition education, breastfeeding promotion and support, provision of referrals and food instrument integrity and distribution.

AA. **RAE** means Report of Actual Expenditure - The Contractor's year-end financial report.

BB. **Semi-Annual Report** - The report that is submitted by the Contractor to the CDPH/WIC Division regarding program operations. The first report will cover October 1 through March 31 and is due on April 30 of each FFY of the contract period. The second report will cover April 1 through September 30 and is due on October 31 of each FFY of the contract period.

CC. **Service Area** - The geographical area covered by the Contractor, which may be listed as County, City, and/or Zip Code.

DD. **ULO** means Unliquidated Obligations - Unpaid WIC Program financial commitments within a budget period.

EE. **USDA** means United States Department of Agriculture - the Federal agency that funds and implements the WIC Program throughout the United States.

FF. **WIC Clinic Sites** - A site that is solely designated for WIC services. This includes fixed clinic sites and satellite clinic sites.

GG. **WIC Clinic Sites (Fixed)** - A site that is solely designated for WIC services (e.g., a room or suite of rooms in a health center or business mall).

HH. **WIC Clinic Sites (Satellite)** - A site that is not designated solely for WIC services, such as a community center, church, or library. Staff must set up and take down equipment (e.g., laptops and printers).

II. **WIC Director** - The Contractor's manager who is responsible for day-to-day WIC Program operations.

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JJ. **WIC Program** means the Special Supplemental Nutrition Program for Women, Infants and Children - A federal assistance program of the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA) for healthcare and nutrition of low-income pregnant women, breastfeeding women, and infants and children under the age of five.

KK. **WNA** means WIC Nutrition Assistant - A paraprofessional who provides WIC services to participants.

LL. **WPPM** means the WIC Policy and Procedure Manual.

3. Service Location

A. The services shall be provided at authorized WIC clinic sites within Contractor's service area, as listed in Exhibit B, Attachment III of this Agreement. Contractor may serve participants who do not live in the service area, at the participant's request, for reasons related to participant convenience or necessity, such as a preference to attend a WIC site near the participant's place of employment. The CDPH/WIC Division may modify an existing service area to reflect changing business needs and demographics by notifying the Contractor in writing.

B. The Contractor agrees to provide WIC Program services in the following service area to:

Eligible California residents of … (Each contract will have specific service area listed here)

4. Service Hours

A. The services shall be provided during the Contractor's normal business hours in addition to extended hours of operation to accommodate the needs of working and student applicants/participants.

B. When business hours of operation change for WIC clinic sites as listed on Exhibit B, Attachment III, the Contractor shall submit notification to the CDPH/WIC Division Contract Manager in writing at least 30 days in advance. The Contract Manager will ensure that the WIC clinic site listing is updated and the changes are reflected on the CDPH/WIC Division website.

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5. Project Representatives

A. The project representatives during the term of this Agreement will be:

California Department of Public Health	Contractor Name
XXX, Contract Manager Telephone: (916) 928-xxxx Fax: (916) 263-3314 E-mail:	Name, Title Telephone: (XXX) XXX-XXXX Fax: (XXX) XXX-XXXX E-mail:

B. Direct all inquiries to:

California Department of Public Health	Contractor Name
CDPH/WIC Division Attention: Contract Manager's Name Local Operations Section 3901 Lennane Drive Sacramento, CA 95834 Telephone: (916) 928-xxxx Fax: (916) 263-3314 E-mail:	Local Agency Name Attention: WIC Director Street Address City, State, Zip Code Telephone: (XXX) XXX-XXXX Fax: (XXX) XXX-XXXX E-mail:

C. Either party may change the information in paragraphs A or B above by giving written notice to the other party. These changes shall not require an amendment to this Agreement.

6. Contractor Responsibilities

A. Administrative Contract Requirements

1) Caseload Management and Performance Standard

a) The Contractor is provided a participant annual caseload for the term of this Agreement. The Contractor shall meet the performance standard by serving one hundred percent (100%) of the authorized caseload.

Budget Period	Caseload
1. 10/1/15 – 9/30/16	XXXXX
2. 10/1/16 – 9/30/17	XXXXX
3. 10/1/17 – 9/30/18	XXXXX
4. 10/1/18 – 9/30/19	XXXXX

b) Should the Contractor fail to meet the performance standard, the CDPH/WIC Division may reduce the Contractor's authorized caseload and associated funding through a formal contract amendment.

2) Quality Assurance Plan

The Contractor shall continue to maintain an internal Quality Assurance Plan and continuously review and evaluate the program services provided.

3) Program Monitoring

The CDPH/WIC Division shall conduct an on-site visit to ensure that the Contractor's program operations and fiscal management procedures are in compliance. On-site monitoring visits shall be performed at least once every two (2) years. The Contractor shall comply with all requirements of the program monitoring process.

4) Staffing Standards

a) The Contractor shall ensure all appropriate staff performs tasks as outlined in Exhibit A, Attachment I and as detailed in Exhibit B, Attachment II.

b) The Contractor shall ensure there are adequate and qualified personnel to perform administrative and clinical duties relating to certification, referral, outreach, education, planning and supervisory functions. Contractor may employee WNAs, RDs, Degreed Nutritionists, CPAs, and other staff in accordance with Exhibit A, Attachment I.

c) The Contractor shall employ RDs for activities that support participant nutrition needs and oversee the development, implementation, and evaluation of the nutrition services plan, the quality assurance plan and nutrition related education, assessments, and nutrition related activities. If there are barriers to meeting this RD staffing standard, the Contractor shall submit a written plan to their CDPH/WIC Division Contract Manager explaining how they will coordinate and provide nutrition services to participants in accordance with Exhibit A, Attachment I.

d) The Contractor shall ensure there are adequate and qualified personnel to perform administrative and clinical duties relating to certification, referral, outreach, education, planning, and supervisory functions.

e) WIC Director

The Contractor shall designate a WIC Director who meets the federal CPA qualifications. The WIC Director is responsible for the day-to-day operations of the WIC program and serves as the principle liaison to the CDPH/WIC Division. This position has supervisory and coordination responsibilities,

including ensuring that the Contractor complies with all fiscal, administrative, and operational requirements and services to be performed in accordance with Exhibit A, Attachment I. If there are barriers to meeting this CPA staffing standard, the Contractor shall submit a written plan for approval to their CDPH/WIC Division Contract Manager explaining how they will meet the fiscal, administrative, and operational requirements and services to be performed in accordance with Exhibit A, Attachment I.

f) Nutrition Education Coordinator

The Contractor shall designate a RD to serve in the role of the WIC Nutrition Education Coordinator. If there are barriers to meeting this RD staffing standard, the Contractor shall submit a written plan to their CDPH/WIC Division Contract Manager explaining how they will coordinate and provide nutrition services to participants in accordance with Exhibit A, Attachment I.

g) Breastfeeding Coordinator

The Contractor shall designate a CPA to serve in the role of the WIC Breastfeeding Coordinator. If there are barriers to meeting this CPA staffing standard, the Contractor shall submit a written plan to their CDPH/WIC Division Contract Manager explaining how they will coordinate and provide breastfeeding services to participants in accordance with Exhibit A, Attachment I.

h) Local Vendor Liaison

The Contractor shall designate one or more staff to serve in the role of the LVL to be the point of contact to the CDPH/WIC Division for LVL related activities in accordance with Exhibit A, Attachment I, Task 6.

i) Dietetic Career Development Coordinator **(Only applies to contract with San Diego State University Research Foundation.)**

The Contractor shall designate one or more staff to serve in the role of the Dietetic Career Development Coordinator to be the point of contact to the CDPH/WIC Division and provide the following services:

1. Provide technical assistance to the five (5) WIC-based dietetic internships and WIC staff interested in becoming a dietitian.
2. Provide outreach services related to dietetic internships to various state and national organizations.
3. Provide written and verbal communication updates regarding meeting performance outcomes to the CDPH/WIC Division.
4. Ensure that dietetic internships comply with Accreditations Standards as set forth by the Accreditation Council for Education in Nutrition and Dietetics (ACEND). This includes the requirements to have a full-time

internship program director and for dietetic internships to provide at least 1200 hours of supervised practice to meet defined competencies by ACEND.

5. Work with dietetic interns to complete the mandatory review process to pass the Registered Dietitian (RD) exam. Funding of project is contingent on meeting performance outcome standards.

j) Dietetic Intern Program **(Only applies to contracts with Clinica Sierra Vista, Northeast Valley, PHFE, San Diego State University Research Foundation and United Health Centers of the San Joaquin Valley.)**

The Contractor shall coordinate and maintain an Academy of Nutrition and Dietetics accredited WIC-based dietetic internship program pursuant to guidelines established by the CDPH/WIC Division and the Accreditation Standards as set forth by the Accreditation Council for Education in Nutrition and Dietetics (ACEND). Qualified applicants seeking Community Nutrition focus are to be given priority in the candidate selection process. The Contractor shall provide a point of contact, or designee, with applicant recruitment advertisements for distribution within the WIC community statewide; i.e., letter and/or WIC website. Provide quarterly status reports and information to the CDPH/WIC Division's Dietetic Intern (DI) Coordinator, regarding the RD exam pass rate, intern data, site visit evaluations, costs, and other relevant information related to the in kind internships. Work with other internship directors, DI Coordinator, and state representatives to address challenges, acknowledge accomplishments, and make recommendations on ways to sustain quality of services. Funding of project is contingent on meeting performance outcome standards.

5) Professional Certifications

The Contractor shall ensure professional staff listed in Exhibit A, Paragraph 6.A.4) above, and identified on Exhibit B, Attachment II maintain any professional certifications and memberships required, which shall also include registration of certification/recertification as part of staffs' profession, relevant subscriptions or memberships to businesses, and professional and technical periodicals or organizations.

6) Program Materials

The Contractor shall utilize CDPH/WIC Division administrative, program, nutrition education, breastfeeding, and outreach materials in accordance with Exhibit A, Attachment I. Prior to purchasing, using, or developing other materials, the Contractor shall request and receive approval from the CDPH/WIC Division.

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7) Staff Training Requirements

a) The Contractor shall provide to their staff a comprehensive orientation to the WIC Program, initial and in-depth training, as well as on-going professional and program training to ensure that all of the Contractor's staff has the knowledge and skills necessary to perform their duties.

b) The Contractor shall provide mandatory training on Civil Rights, Alcohol and Drug Abuse, National Voter Registration Act, and Code of Conduct training once every 12 months to all staff. Newly hired staff shall have the mandatory training within three (3) months of employment, and subsequently, once every 12 months.

c) The Contractor is responsible for assessing staff and ensuring training appropriate to the position and duties is received on an ongoing basis, including, but not limited to, Participant-Centered Education and nutrition and breastfeeding topics.

d) The Contractor shall meet the staff training requirements by any of the following options: online trainings; trainings at Regional Training Centers; in-service trainings; staff meetings; and attending CDPH/WIC Division approved conferences, trainings, and/or meetings at locations to be determined.

8) Travel

The Contractor's staff shall be allowed to travel to attend trainings and conferences; attend committee meetings; provide services at remote WIC clinic sites; and provide community outreach activities.

9) Data Collection

Data collection and management information systems required by the CDPH/WIC Division shall be utilized to address and minimize fraud opportunities.

a) The Contractor shall comply with all data collection, entry, and reporting requirements, including data on nutrition assessment and certification, nutrition education, food benefits and issuance, breastfeeding promotion and support, outreach, WIC vendor support, Farmers' Market Nutrition Program (if applicable), and Breastfeeding Peer Counseling Program (if applicable).

b) The Contractor shall only utilize the data collection and/or management information system provided by the CDPH/WIC Division.

10) Program Reporting Requirements

a) The Contractor shall complete and submit a Semi-annual Report on program operations.

- The first report will cover October 1 through March 31 and is due on April 30 of the each budget period of the contract.
- The second report will cover April 1 through September 30 and is due on October 31 of each budget period of the contract.
- The Semi-annual Report will include updates regarding the services outlined in Exhibit A, Attachment I. Refer to Exhibit A, Attachment II, Semi-annual Report Sample.

b) The Contractor shall complete, submit, and update a NSP every two years that is consistent with the CDPH/WIC Division nutrition education goals and objectives. The NSP will be reviewed and approved by the assigned Nutrition Consultant.

11) WIC Clinic Site Changes

a) The Contractor shall keep open and continue services at the approved WIC clinic sites under this Agreement as approved and listed in Exhibit B, Attachment III.

b) The Contractor may not create temporary sites, and/or outreach, enrollment, or education sites without written approval from the CDPH/WIC Division.

c) The Contractor must receive written approval from CDPH/WIC Division prior to entering into any contractual agreement for new WIC clinic sites.

d) The Contractor shall be responsible for any liabilities and costs incurred from entering into any contractual agreement for a site that is not approved by CDPH/WIC Division; the Contractor must not use WIC funds to cover these unapproved costs.

e) If the opening or closure of WIC clinic sites will result in a caseload increase or decrease, appropriate funding changes will be made through a formal contract amendment.

f) Based on unmet need data and/or other verifiable data, the CDPH/WIC Division may determine that additional WIC clinic sites need to be opened to serve an unmet need in a specific service area. If so determined, the CDPH/WIC Division will first work with existing contractors already providing services in the identified service area to ensure uninterrupted participant access to services. The CDPH/WIC Division may release a Request for Application (RFA) to solicit potential contractors to open additional sites based on CDPH/WIC service site location needs. If CDPH/WIC Division determines that a site needs to be closed, the CDPH/WIC Division will work with the Contractor to close the site, address participant access needs, and amend the contract accordingly.

g) The Contractor shall obtain CDPH/WIC Division written approval prior to relocating or closing an existing WIC clinic site. The Contractor shall submit a justification package to their CDPH/WIC Division Contract Manager.

h) The CDPH/WIC Division will base their decision on reviewing the Contractor's justification, as well as using state-derived data reports and/or other verifiable data sets that demonstrate unmet need among eligible WIC populations. Other evaluation criteria may be considered at the discretion of the CDPH/WIC Division.

12) Time Reporting Requirement

The Contractor shall make available all time studies upon request of the CDPH/WIC Division.

a) Time Studies
The Contractor shall complete a time study. Each time study shall cover a minimum of one (1) week a month or one (1) month per quarter. All staff providing WIC services, directly and indirectly are to be included in the time study. The time study must accurately document time spent on the four (4) Federal WIC cost categories: 1) general administration, 2) client services, 3) nutrition education, and 4) breastfeeding.

b) The Time Studies shall be reported in accordance with Paragraph 13) below as part of the Report of Actual Expenditure (RAE) process.

c) Continuous Time Reporting - Farmers' Market Nutrition Program (if applicable)
The Contractor shall adhere to all fiscal procedures required for FMNP restricted funds and keep continuous time reports for all staff performing FMNP-related duties as outlined in Exhibit A, Attachment I, Task 7.

d) Continuous Time Reporting - Breastfeeding Peer Counseling (if applicable)
The Contractor shall adhere to all fiscal procedures required for BFPC restricted funds and keep continuous time reports for all dual funded staff performing BFPC-related duties as outlined in Exhibit A, Attachment I, Task 8.

13) Report of Actual Expenditure Requirement

a) The Contractor shall submit, no later than December 15th, following the end of each FFY of this Agreement, a Report of Actual Expenditures (RAE) packet (Refer to Exhibit A, Attachment III, RAE Sample). The RAE packet must be submitted to the CDPH/WIC Division in physical and electronic form, and must include:

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1. A copy of the final undisputed invoice for the FFY. The RAE packet cannot be completed until the final invoice for the FFY has been approved and all obligations have been liquidated.
2. An Expenditure Worksheet;
3. A RAE NSA Operating Expenses Worksheet;
4. An Agency Time Sheet Summary; and,
5. A RAE Worksheet.

b) In the event of early termination of this Agreement, the RAE packet shall be submitted no later than 60 days from the termination date.

14) Nutrition Education Minimum Expenditure

a) The Contractor shall meet the nutrition education expenditure requirement of spending a minimum of one sixth (1/6) (approximately 18%) of the Contractor's NSA funds on Nutrition Education Services. Time studies may be used as part of the verification for this expenditure.

b) The CDPH/WIC Division may recover up to eighteen percent (18%) of the annual NSA funds for a budget period of this Agreement if the Contractor fails to spend, document, or report the required minimum of one sixth (1/6) (approximately 18%) minimum expenditures for each budget period of this Agreement in accordance with Exhibit A, Attachment I, Task 2.

15) Breastfeeding Promotion and Support Minimum Expenditure

a) The Contractor shall meet the breastfeeding promotion and support minimum expenditure dollar amount requirement of NSA funding per pregnant and/or breastfeeding participants on breastfeeding promotion activities. This figure will be updated annually based on the USDA minimum expenditure requirement published each year around October. The Contractor will be notified by the CDPH/WIC Division when the amount is released. Time studies may be used as part of the verification for this expenditure.

b) The CDPH/WIC Division may recover the minimum expenditure if the Contractor fails to spend, document, or report the breastfeeding promotion and support minimum expenditure requirement per pregnant and/or breastfeeding participants in accordance with Exhibit A, Attachment I, Task 4.

16) Subcontract Requirements

a) The Contractor shall request written authorization and receive CDPH/WIC Division approval prior to executing a subcontract exceeding $2,500 in accordance with requirements specified in Exhibit D(F), Provision 5.

b) The Contractor shall obtain at least three (3) bids or justify a non-competitive bid award.

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17) Procurement Requirements

a) The Contractor shall request written authorization and receive CDPH/WIC Division approval prior to any procurement purchase exceeding $2,500 in accordance with requirements specified in Exhibit D(F), Provision 3.

b) The Contractor shall obtain at least three (3) bids or justify a non-competitive bid award.

18) Inventory and Management of State Property Requirements

The Contractor shall follow the requirements regarding the reporting, tagging, annual inventorying, and proper disposal of all equipment and/or property that is furnished by the CDPH/WIC Division or purchased/reimbursed with funds provided through this Agreement, as specified in Exhibit D (F), Provision 4.

19) Motor Vehicles and Vehicle Maintenance

a) The Contractor may purchase and operate motor vehicle(s) to perform the services of this Agreement with CDPH/WIC Division approval. All CDPH/WIC Division owned motor vehicle(s) purchased with WIC funds may be used for travel as listed in Exhibit A, Paragraph 6.A.8) and also for transportation of supplies needed for WIC Program operations.

b) The Contractor shall follow the requirements detailed in Exhibit D(F), Paragraph 4.g. regarding the purchase and use of Motor Vehicle(s). The Contractor shall follow the proper procedures to register the vehicle as follows: Legal Owner is the California Department of Public Health; Registered Owner is the Contractor's Legal Name.

c) The Contractor shall obtain and submit a copy of the required insurance documents as detailed in Exhibit E, Paragraph 3.B.

d) The Contractor shall ensure a travel log is completed on all state-owned vehicles and shall make travel logs available upon request.

e) The Contractor is responsible for vehicle maintenance. Prior approval must be obtained for any vehicle maintenance over $500; the Contractor shall obtain at least three (3) bids or justify a non-competitive bid award and submit the request to the CDPH/WIC Division Contract Manager.

20) Information Technology and Technical Support Services

a) The Contractor shall secure local information technology support services and infrastructure to maintain an appropriate network.

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b) The Contractor is responsible for the implementation and ongoing support of its wide area network (WAN) infrastructure and for the devices within that network. The Contractor is responsible for the telecommunications, hardware, and security on the local side of the network.

c) The Contractor must have an entry point to their local network for CDPH/WIC Division access; this entry point is called a Point of Presence (POP).

d) The Contractor shall secure local information technology support services and infrastructure to fulfill the following responsibilities:

1. Provide technical support consistent with a Transmission Control Protocol/Internet Protocol (TCP/IP) technical environment;
2. Allow workstations and other WIC devices to communicate via TCP/IP through the CDPH/WIC Division router to access WIC resources in the CDPH/WIC Division network; and
3. Allow printers and other WIC devices to be able to receive TCP/IP communication through the CDPH/WIC Division router from resources within the CDPH/WIC Division network. Allow video conferencing equipment to be able to communicate with CDPH/WIC Division central video conferencing systems within the CDPH/WIC Division network.

e) The Contractor shall support implementation and maintenance of WIC technology activities:

1. Implement infrastructure and devices needed to perform WIC Program business; and
2. Maintain workstations, printers, and TCP/IP equipment, from the WAN infrastructure or any other end user TCP/IP device, so WIC Program business can be performed.

f) The Contractor shall provide TCP/IP network troubleshooting and timely support for WIC site operations:

1. Isolate TCP/IP communication problems in a timely manner so WIC Program business can be performed; and
2. Provide information to the CDPH/WIC Division/State of California Information Technology staff when trying to determine if TCP/IP communication problems are local or in the State network.

g) The Contractor shall provide maintenance and support for hardware/software used in WIC Program operations:

1. Install, maintain, and configure the operation systems, device drivers, and applications software used by the Contractor's staff for performing WIC Program operations; and

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2. If software or hardware is not performing as expected, contact the manufacturer for resolution.

h) The Contractor shall ensure proper security of local network systems and WIC data:

1. Ensure that the devices in the local agency's network are protected from hackers, viruses, and other security threats through the use of virus protection software, appropriate hardware, restrictions of TCP/IP communications, or any other tool that may be needed to protect WIC Program devices on the network; and
2. When data traverses wireless networks and/or the internet, communications shall be protected with a minimum of 128 bit encryption through an encryption network.

i) The Contractor shall follow the Information Privacy and Security Requirements as detailed in Exhibit G.

21) Implementation of Technology Projects

The CDPH/WIC Division will periodically implement technology projects or systems such as electronic inventory, video conferencing, implementation of a new management information system, and implementation of an electronic benefit transfer system. The Contractor shall support the implementation of State information technology projects by following the instructions provided by the CDPH/WIC Division. The instructions may include requirements to use CDPH/WIC NSA funds to purchase specific equipment, train staff, or implement a new technology project within the implementation timeframe provided.

22) Emergency and Disaster Planning

a) If the Contractor experiences an emergency situation or incident, the Contractor shall notify the CDPH/WIC Division within twenty-four (24) hours. The Contractor shall work collaboratively and cooperatively with appropriate State and local agencies, local assistance centers, and community response teams to schedule enrollment appointments and to ensure WIC services are delivered to eligible participants.

b) The Contractor is required to maintain an emergency and disaster plan and follow the procedure and coordination requirements.

23) Regional Training Centers (Only applies to contracts with Alameda County, American Red Cross, Community Resource Project, Planned Parenthood of Orange and San Bernardino Counties, Riverside County, Shasta County and United Health Centers of the San Joaquin Valley.)

Exhibit A
Scope of Work

The Contractor shall provide a Regional Training Center for use by local agency trainers and/or the CDPH/WIC Division trainers to conduct breastfeeding trainings, breastfeeding peer counseling trainings, and various local agency training and vendor training provided to local agency staff. The Contractor shall maintain a training room facility; site logistics including tables and chairs; and appropriate equipment such as computers, CDPH/WIC Division authorized management information system, copiers, screens, and other training equipment and internet access necessary for trainings.

B. Local Agency Specific Services

Please see Exhibit A, Attachment I, Local Agency Specific Services, Services to be performed.

Exhibit A, Attachment I
Local Agency Specific Services
Services to be performed

Task 1: Nutrition Assessment and Certification:

Objective: The Contractor shall, on an ongoing basis, determine eligibility, certify/enroll individuals, and provide WIC Program benefits.

Activities to Support the Objective
Function 1: Assess that applicants meet eligibility criteria: 1) categorical, 2) residential, 3) financial and 4) nutritional risk. If applicants meet these four criteria, enroll eligible applicants and document ineligibles. Function 2: Conduct a complete nutrition assessment to include anthropometric/biochemical, health history, and diet information. Function 3: Provide and document health and social service referrals as appropriate. Function 4: Accurately prescribe food benefits based on category preferences and individual nutritional need. Function 5: Document an individual nutrition education plan (INEP) in the CDPH/WIC Division authorized management information system.
Deliverables
A. Eligible participants are enrolled and receiving appropriate WIC benefits. B. Nutrition assessments are completed on all eligible WIC participants. C. Food benefits are prescribed accurately to all WIC participants. D. Appropriate referrals are provided to all WIC participants. E. All information on enrolled applicants is accurately documented in the CDPH/WIC Division authorized management information system. Each participant shall have an INEP which includes a goal and appropriate secondary education follow up plan. F. Ineligible applicants receive Notice of Ineligibility, and referrals if appropriate.

Exhibit A, Attachment I
Local Agency Specific Services
Services to be performed

Task 2: Nutrition Education:

Objective: The Contractor shall, on an ongoing basis, provide nutrition education to all WIC participants.

Activities to Support the Objective
Function 1: Provide and document appropriate, evidenced-based, participant-centered education that is based on nutritional risk and participant concerns. Function 2: Provide and document the minimum number of required nutrition education contacts per the participant's category and certification period. Function 3: Provide high risk counseling by a Registered Dietitian (RD) and/or a Degreed Nutritionist (DN) to participants who meet the high risk criteria based on the participant's nutrition assessment. Function 4: Utilize CDPH/WIC Division materials, both printed and online, to ensure that consistent nutrition messages are provided to participants in individual counseling sessions and group education. Refer to Exhibit A, 5.A.6).
Deliverables
A. Participants have appropriate initial and secondary nutrition education provided, based on the INEP and subsequent assessments. B. Document all participant nutrition education information in the CDPH/WIC Division authorized management information system.

Exhibit A, Attachment I
Local Agency Specific Services
Services to be performed

Task 3: Food Benefits and Issuance

Objective: The Contractor shall, on an ongoing basis, issue food benefits to all WIC participants using the CDPH/WIC Division authorized management information system.

Activities to Support the Objective
Function 1: Instruct each participant on the selection of authorized foods, quantities, and on the correct use of WIC food benefits at authorized vendors. Function 2: Maintain and adhere to procedures for ensuring food benefits security, including the safe and secure transportation, receiving, handling and storage of all check stock, food benefits, laptops and portable printers. Function 3: Maintain and adhere to procedures for fraud prevention including separation of duties.
Deliverables
A. Food benefits are accurately issued. B. Participant is able to demonstrate the ability to use the food benefits and select allowed foods and quantities. C. The handling procedures for check stock, food benefits, laptops, and portable printers meet program security standards.

Exhibit A, Attachment I
Local Agency Specific Services
Services to be performed

Task 4: Breastfeeding Promotion and Support:

Objective: The Contractor shall, on an ongoing basis, promote breastfeeding and provide breastfeeding support to all pregnant and postpartum participants.

Activities to Support the Objective
Function 1: Contractor shall promote breastfeeding to all pregnant and postpartum women unless medically contraindicated. Function 2: Provide and document evidenced-based, participant-centered breastfeeding education that enables women to make an informed decision regarding infant feeding. Function 3: Refer participants to the peer counseling program or lactation specialist, as requested by the participant or recommended by the CPA. Function 4: Make breast pumps and kits available to postpartum women.
Deliverables
A. Participants are provided accurate breastfeeding information. B. Document all participant breastfeeding education information in the CDPH/WIC Division authorized management information system. C. Document breast pump issuance and the reasons for issuance in the CDPH/WIC Division authorized management information system. D. Maintain an accurate inventory of breast pumps. E. Maintain all breast pumps in a clean and working condition.

Exhibit A, Attachment I
Local Agency Specific Services
Services to be performed

Task 5: Outreach

Objective: The Contractor shall provide information about WIC Program benefits and requirements to inform potential WIC eligible populations about WIC services.

Activities to Support the Objective
Function 1: Provide WIC Program information to and coordinate with health and social service organizations to encourage referrals to the WIC Program. Function 2. Annually inform potential eligible persons of the availability of program benefits, eligibility criteria, and local agency contact information.
Deliverables
A. Establish referral networks by partnering with the mandatory referral agencies, healthcare providers, and community-based organizations. B. Conduct and document the approved annual Public Outreach Announcement. Refer to Exhibit A, 5.A.6). C. Include outreach activities in the Semi-annual Report.

Exhibit A, Attachment I
Local Agency Specific Services
Services to be performed

Task 6: WIC Vendor Technical Assistance and Support

Objective: The Contractor shall designate one or more staff to serve in the role of the Local Vendor Liaison (LVL) to be the point of contact to the CDPH/WIC Division for LVL related activities. The LVL staff shall provide technical assistance to WIC authorized vendors.

Activities to Support the Objective
Function 1: Coordinate and conduct annual in-service training to WIC local agency staff on Code of Conduct, which includes Conflict of Interest and Confidentiality. Function 2: Conduct and document quarterly Technical Assistance (TA) visits, serving as a resource to existing WIC authorized vendors both during the TA visit and upon request in between onsite visits. Function 3: Attend CDPH/WIC Division conducted LVL training as directed. Function 4: Attend CDPH/WIC Division conducted vendor training at least once within the period of the contract. Function 5: Participate in and document vendor-related projects on an as needed basis.
Deliverables
A. Ensure that the Code of Conduct training is delivered to the Contractor's local agency staff at least once per calendar year. B. Assist the Contractor's WIC Director or designee to ensure the Contractor's local agency staff review and sign the Conflict of Interest Statement. C. Meet a minimum 90 percent performance standard of TA visits completed for each assigned vendor for each quarter of a Federal Fiscal Year, which begins October 1. D. Document results of every TA visit using the CDPH/WIC Division LVL reporting forms and submit to the CDPH/WIC Division. E. Provide WIC Program information and referrals to vendors, upon request. F. Conduct onsite preauthorization visits (OPV) on an as needed basis. G. Document results of vendor-related project outcomes and submit to the CDPH/WIC Division as required. H. Provide written notice to the CDPH/WIC Division when there is a change of LVL(s). The notice shall include the name, WIC local agency, telephone number, email address of the new LVL, and notification to delete outdated information. I. Include LVL activities in the Semi-annual Report.

Exhibit A, Attachment I
Local Agency Specific Services
Services to be performed

Task 7: Farmers' Market Nutrition Program – N/A Not Applicable – Not part of this contract, content intentionally omitted

Objective: The Contractor shall issue Farmers' Market Nutrition Program (FMNP) food benefits to eligible participants between May and September of each year using the CDPH/WIC Division authorized management information system; provide nutrition education on the benefits of fruits and vegetables to all FMNP recipients; and serve as a local resource for farmers and market managers for program information and assistance.

Activities to Support the Objective
Function 1: Issue WIC FMNP benefits to eligible participants based on established distribution protocol. Function 2: Provide nutrition education to FMNP benefit recipients and document in the CDPH/WIC Division authorized management information system. Function 3: Provide instruction and information to FMNP recipients on the proper use of the benefit and locations where it may be used. Function 4: Designate an FMNP Coordinator and provide yearly in-service training to WIC local agency staff on program requirements. Function 5: Provide guidance and technical assistance to farmers and market managers on program requirements. Function 6: Provide accountability for the receipt, storage, inventory, transportation, security, issuance, disposition and reconciliation of FMNP benefits assigned to the WIC local agency by CDPH/WIC Division.
Deliverables
A. Prior to season start up, the Contractor shall submit an FMNP Season Start Up Package that includes the following components: 1. Name and contact information of the WIC local agency's FMNP Coordinator; 2. Materials and procedures for fruit and vegetable nutrition education of FMNP recipients; 3. A printed list of local WIC-authorized markets informing FMNP recipients of where to use FMNP benefits; 4. Instructional guidance for recipients on how to use FMNP benefits; 5. Plan for providing in-service training to WIC local agency staff on FMNP procedures; and 6. Activities planned with local farmer's markets and market associations to promote program benefits and participation. B. Contractor shall document nutrition education contacts in the CDPH/WIC Division authorized management information system for all FMNP benefit recipients. C. Contractor shall adhere to all fiscal procedures required for FMNP restricted funds and keep continuous time reports for all staff performing FMNP-related duties. D. Contractor shall submit by February 15 a completed FMNP Year End Report reconciling the disposition (issued, lost, damaged, etc.) of all FMNP benefits assigned to the WIC local agency in the previous year.

Exhibit A, Attachment I
Local Agency Specific Services
Services to be performed

Task 8: Breastfeeding Peer Counseling Program – N/A Not Applicable – Not part of this contract, content intentionally omitted

Objective: The WIC Breastfeeding Peer Counseling (BFPC) Contractors shall perform all the work required to administer and provide mother to mother breastfeeding support services to WIC mothers following the Loving Support guidelines for peer counseling services.

Activities to Support the Objective
Function 1: Maintain and document an internal referral link between WIC Program and WIC BFPC Program. Function 2: Provide BFPC Program direct services as an enhancement to WIC Program breastfeeding services and support. Function 3: Provide regular supervision and monitoring of peer counselors. Function 4: Prepare and submit activities and information regarding the BFPC Program as part of the required Semi-annual Report.
Deliverables
A. A process for referring participants who would most benefit from mother to mother breastfeeding support to the Peer Counseling program is maintained and WIC clinic staff and BFPC Program staff have been trained on this process. B. Peer counselors maintain regular contact with program participants, provide basic breastfeeding information during contacts, and refer high risk issues outside of their scope of practice to the WIC designated breastfeeding expert. C. All peer counselor and breastfeeding expert contacts, and all referrals to the WIC designated breastfeeding expert, are documented in the program database. D. Include BFPC information and activities in the Semi-annual Report. E. Contractor shall adhere to all fiscal procedures required for BFPC restricted funds and keep continuous time reports for all dual funded staff performing BFPC-related duties.

Exhibit A, Attachment I
Local Agency Specific Services
Services to be performed

Task 9: Regional Breastfeeding Liaison Program – N/A Not Applicable – Not part of this contract, content intentionally omitted

Objective: The Contractor shall employ a dedicated staff member(s) as a Regional Breastfeeding Liaison (RBL) for WIC breastfeeding and program services outreach and promotion. The RBL Program is designed to reduce the breastfeeding support gaps for WIC participants in the community.

Activities to Support the Objective
Function 1: The RBL will serve as a breastfeeding subject matter expert and WIC liaison to promote WIC Program services and resources within their community or region by establishing/fostering relationships with community stakeholders who reach WIC-eligible participants and enhance continuity of care**.** (e.g., MCAH/Perinatal Service Coordinators, women's shelters, community colleges, childcare centers, schools, employers, faith-based agencies, community-based organizations, public health departments, health clinics, hospitals, businesses, etc.). Function 2: The RBL will work with health care providers to improve their understanding of WIC's role as a breastfeeding resource and to increase referrals.
Deliverables
A. Contractor shall develop an RBL Plan of Action. B. Include RBL Program information and activities in the Semi-annual Report. C. Contractor shall adhere to all fiscal procedures required for NSA restricted funds and keep continuous time reports for all staff performing RBL-related duties. D. RBL shall provide activity updates to Regional WIC Directors each quarter or as requested by the CDPH/WIC Division. E. RBL shall participate in meetings, conferences, webinars and conference calls as requested by the CDPH/WIC Division.

Exhibit A, Attachment II
Semi-annual Report Sample

FFY 2015 Semi-annual Report

October 1, 2015 – March 31, 2016 (Due April 30, 2016) ☐ April 1, 2016 – September 30, 2016 (Due October 31, 2016)	
Local Agency Name:	
WIC Director:	**Date:**
Contact email:	**Contact phone:**

Narrative Questions: Please provide responses to the questions below regarding the relevant six month time frame.

1. **Challenges/Successes**
   For the following topics, please describe 1) any challenges that your agency has faced that impacted your WIC Program, and what you are doing to address or overcome the challenges, and 2) any successes achieved by your agency.

   A. **Outreach** (examples include community collaborations or coordination with other programs in your area, such as community clinics, hospitals, food banks, CalFresh, Head Start, First 5, etc.) to assist in serving and providing referrals to WIC participants. Please also indicate if you have a Memorandum of Understanding (MOU) with any of these organizations.

      1) Challenges:

      2) Successes:

   B. **Participant retention efforts** (examples include following up on missed appointments and no shows, evaluating customer service and clinic operations).

      1) Challenges:

      2) Successes:

   C. **Staff** (staff retention)

      1) Challenges:

      2) Successes:

   D. **Local Vendor Liaison (LVL)**

      1) Challenges:

SAMPLE

2) Successes:

E. Breastfeeding Peer Counseling Program (Check if not applicable ☐)

1) Challenges:

2) Successes:

F. Farmers' Market Nutrition Program (Check if not applicable ☐)

1) Challenges:

2) Successes:

G. Regional Breastfeeding Liaison Project (Check if not applicable ☐)

1) Challenges:

2) Successes:

H. Other (Check if not applicable ☐)

1) Challenges:

2) Successes:

I. List any additional accomplishments and goals achieved by your WIC Program that you would like to share:

2. <u>Trainings/Conferences/Staff development</u>
Describe any trainings or conferences that helped in developing staff capacity and/or improving services:

3. <u>Technical Assistance and Training Needs</u>
Please detail if technical assistance and training is needed from the CDPH/WIC Division.

SAMPLE

Exhibit A, Attachment III
RAE Sample

REPORT OF ACTUAL EXPENDITURES
Budget Period: October 1, 2015 - September 30, 2016

	Section A		Section B
1	LOCAL AGENCY NAME:	0	CHECK APPLICABLE
2	CONTRACT NUMBER:	0	ALL OBLIGATIONS LIQUIDATED
3	DATE SUBMITTED:		FINAL
4	DATE REVISED:		

			Section C REPORTING CATEGORIES PERCENTAGES				
5			#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
	NSA EXPENSE CATEGORIES	Section D NSA EXPENSE TOTAL	NUTRITION EDUCATION	BREASTFEEDING PROMOTION & SUPPORT	CLIENT SERVICES	GENERAL ADMINISTRATION	Section E GRAND TOTALS
6	TOTAL PERSONNEL	$ -	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
7	TOTAL INDIRECT OPERATING	$ -	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
8	TOTAL DIRECT OPERATING	$ -	$ -	$ -	$ -	$ -	$ -
9	TOTAL ANNUAL EXPENDITURES	$ -	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!

Section F

I certify that this report contains actual expenses for allowable WIC programs costs for the budget period and performed in accordance with WIC contract provisions.

10 **Agency Director (required):** _____ DATE _____
SIGNATURE (in blue ink)

11 Type Name & Title: _____

12 **Primary WIC Program Contact:** _____ DATE _____
SIGNATURE (in blue ink)

13 Type Name & Title: _____

	Local Agency Completes
	Formula Driven

SAMPLE

Exhibit A, Attachment III
RAE Sample

EXPENDITURE WORKSHEET
Budget Period:
October 1, 2015 - September 30, 2016

1 **Local Agency Name:** 0

Contract Number: 0

	Step One	Section A Total Expenditure		Section B Non NSA Grants				Section C (A-B)
	PERSONNEL	Amount Invoiced		Breastfeeding Peer Counseling (PCA 53313)	Farmers' Market Nutrition Program (PCA 53300)			Total NSA Personnel Invoiced
2	Salaries & Wages	$ -	-	$ -	$ -	$ -		$ -
3	Fringe Benefits	$ -	-	$ -	$ -	$ -	=	$ -
4	**TOTAL**	**$ -**	-	**$ -**	**$ -**	**$ -**	=	**$ -**

	Step Two	Section F		Section G Non NSA Grants				Section H
	DIRECT OPERATING	Amount Invoiced		Breastfeeding Peer Counseling (PCA 53313)	Farmers' Market Nutrition Program (PCA 53300)			Total NSA Direct Operating Invoiced
5	Operating Expenses	$ -	-	$ -	$ -	$ -	=	$ -
6	Major Equipment			$ -	$ -	$ -	=	$ -
7	Subcontracts			$ -	$ -	$ -	=	$ -
8	**TOTAL**	**$ -**	-	**$ -**	**$ -**	**$ -**	=	**$ -**

	Step Three	Section K		Section L Non NSA Grants				Section M
	INDIRECT OP	Amount Invoiced		Breastfeeding Peer Counseling (PCA 53313)	Farmers' Market Nutrition Program (PCA 53300)			Total NSA Indirect Invoiced
9	**TOTAL**	**$ -**	-	**$ -**	**$ -**	**$ -**	=	**$ -**

		Section P		Section Q Total Non NSA Grants				Section R
		Total Invoiced		Breastfeeding Peer Counseling (PCA 53313)	Farmers' Market Nutrition Program (PCA 53300)			Total NSA Invoiced
10	**GRAND TOTALS**	**$ -**	-	**$ -**	**$ -**	**$ -**	=	**$ -**

Local Agency Completes
Formula Driven

SAMPLE

Exhibit A, Attachment III
RAE Sample

NSA OPERATING EXPENSES WORKSHEET
Budget Period:
October 1, 2015 - September 30, 2016

1 **Local Agency Name:** 0 **Contract Number:** 0

	Total Operating Expenses			Direct Operating Expenses by Function Category				
2	**Operating Expenses**	$ -		Nutrition Education	Breastfeeding Promotion & Support	Client Services	General Administration	Checks/Balance (should be zero)
	Minor Equipment	$ -	-	$ -	$ -	$ -	$ -	$0.00
	General Office Expenses	$ -		$ -	$ -	$ -	$ -	$0.00
	Training	$ -		$ -	$ -	$ -	$ -	$0.00
	Travel	$ -		$ -	$ -	$ -	$ -	$0.00
	Professional Certifications	$ -		$ -	$ -	$ -	$ -	$0.00
	Outreach	$ -		$ -	$ -	$ -	$ -	$0.00
	Media/Promotion	$ -		$ -	$ -	$ -	$ -	$0.00
	Program Materials	$ -		$ -	$ -	$ -	$ -	$0.00
	Vehicle Maintenance	$ -		$ -	$ -	$ -	$ -	$0.00
	Audit	$ -		$ -	$ -	$ -	$ -	$0.00
	Facility Costs	$ -		$ -	$ -	$ -	$ -	$0.00
	Total Operating Expenses	**$ -**	-	**$ -**	**$ -**	**$ -**	**$ -**	**$0.00**

		$ -	Nutrition Education	Breastfeeding Promotion & Support	Client Services	General Administration	Checks/Balance (should be zero)
3	**Major Equipment**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	$0.00

		$ -		Nutrition Education	Breastfeeding Promotion & Support	Client Services	General Administration	Checks/Balance (should be zero)
4	**Subcontracts**	-	-	$ -	$ -	$ -	$ -	$0.00
	GRAND TOTALS	**-**	-	**$ -**	**$ -**	**$ -**	**$ -**	**$0.00**

SAMPLE

	Local Agency Completes
	Formula Driven

Exhibit A, Attachment III
RAE Sample

Agency Time Sheet Summary

(1)	**0**		(2)	**2015/2016**		
	Local Agency Name			Fiscal Year		
		NSA COST OBJECTIVES				
(3)		**(4)**	**(5)**	**(6)**	**(7)**	**(8)**
Employee		**Nutrition**	**Breastfeeding**	**Client**	**Administrative**	**Subtotal**
Name		**Education**	**Support**	**Services**	**Services**	**NSA**
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
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						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
						0.00
(9)	Total Hours	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**
Percentage		**#DIV/0!**	**#DIV/0!**	**#DIV/0!**	**#DIV/0!**	
		(10)	(11)	(12)	(13)	

	Local Agency Completes
	Formula Driven

SAMPLE

Exhibit B
Budget Detail and Payment Provisions

1. Invoicing and Payment

A. For services satisfactorily rendered and upon receipt and approval of the invoices, the CDPH/WIC Division agrees to compensate the Contractor for actual expenditures incurred in accordance with the costs specified herein.

B. Contractor shall submit one (1) original invoice, in arrears, not more frequently than monthly, unless an alternative period has been approved in writing, in advance, by the CDPH/WIC Division. Each monthly invoice shall include the Contractor's Agreement Number and shall be submitted for payment no more than forty-five (45) calendar days following the close of each billing period. Invoices are to be submitted to:

California Department of Public Health
WIC Division
Attention: Local Operations Section
3901 Lennane Drive
Sacramento, CA 95834

C. Contractor shall request reimbursement on an invoice form provided by the CDPH/WIC Division for allowable WIC Program costs incurred. Invoices not submitted on this form (Exhibit B, Attachment IV – Invoice Sample) shall be returned unpaid.

D. Contractor shall continuously submit completed invoice packets including:

1. A completed invoice;
2. A Nutrition Services Administration (NSA) operating worksheet for the corresponding billing period;
3. A NSA operating expenses summary (to date).

E. The invoice shall be signed by the Contractor's invoice preparer, WIC Director, and the Agency Director (or designee). If a designee signs an invoice for the Agency Director, a letter signed by the Agency Director shall be on file to identify and authorize the designee. The designee shall not be the preparer of the invoice.

F. The CDPH/WIC Division reserves the right to deny, disallow, claim, cut, withhold, or recover payments or charges for noncompliance for any outstanding invoice. Upon receipt of the invoice, the CDPH/WIC Division will review the invoice within 5 working days. If payment of an invoice is denied, the unpaid invoice with an invoice dispute notice will be returned to the Contractor. The Contractor will correct the invoice and return to the CDPH/WIC division within 5 working days.

G. Submission of Final Invoice

1) If applicable, the Contractor shall submit a complete and accurate list of unliquidated obligations (ULOs) following the end of each FFY by November

Exhibit B
Budget Detail and Payment Provisions

15th. (Refer to Exhibit B, Attachment V – ULO Sample). All obligations must be liquidated no later than December 1st with submission of the final invoice.

2) The Contractor shall submit, no later than December 1st following the end of each FFY of this Agreement, a final invoice. The final invoice of each FFY shall be clearly marked "Final," indicating that all payment obligations of the State under this Agreement have ceased and that no further payments are due or outstanding for that FFY. If a final invoice for the FFY is not received by December 1st, the last invoice received from the Contractor for that FFY shall be considered the final invoice even if not marked with the words "Final Invoice." The CDPH/WIC Division may, at its discretion, choose not to honor any delinquent final invoice submitted after December 1st if the Contractor fails to obtain prior written CDPH/WIC Division approval of an alternative final invoice submission deadline.

3) The Contractor shall submit a "Contractor's Release (Exhibit F)" with the final invoice of the last FFY of this Agreement.

2. Budget Contingency Clause

A. It is mutually agreed that if the Budget Act of the current year, and/or any subsequent years, covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provisions of this Agreement.

B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to the Contractor to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. Amounts Payable

A. The amounts payable under this Agreement shall not exceed:

1) $XXX,XXX for the budget period of 10/01/2015 through 09/30/2016

2) $XXX,XXX for the budget period of 10/01/2016 through 09/30/2017

3) $XXX,XXX for the budget period of 10/01/2017 through 09/30/2018

4) $XXX,XXX for the budget period of 10/01/2018 through 09/30/2019

Exhibit B
Budget Detail and Payment Provisions

B. Payment allocations shall be made for allowable expenses up to the amount annually encumbered commensurate with the state fiscal year in which services are fulfilled and/or goods are received.

5. Travel and Per Diem Reimbursement

Any reimbursement for necessary travel and per diem shall be at the reimbursement rates currently in effect as established by the California Department of Human Resources (CalHR) at http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx. Refer to Exhibit D(F), Provision 2, Travel and Per Diem Reimbursement.

6. Expense Allowability / Fiscal Documentation

A. Invoices received from the Contractor for payment by the CDPH/WIC Division shall not be deemed evidence of allowable Agreement costs.

B. The Contractor shall retain for review and audit by the CDPH/WIC Division adequate documentation of all expenses claimed pursuant to this Agreement to permit a determination of expense allowability.

C. If the allowability of an expense cannot be determined by the CDPH/WIC Division because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to Generally Accepted Accounting Principles (GAAP), all questionable costs may be disallowed and payment may be withheld by the CDPH/WIC Division. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.

D. Reimbursement shall be made for allowable expenses up to the amount annually encumbered commensurate with the state fiscal year in which services are performed and/or goods are received.

E. The Contractor shall maintain and have available for review and audit, all accounting records with source documentation of actual expenditures for each fiscal year covered by the term of this Agreement. These documents must be retained for three (3) years following the date of final payment under this Agreement. The CDPH/WIC Division may periodically request documentation for expenditures to verify that the cost is allowable and necessary.

F. Travel is a reimbursable expense; receipts must be maintained to support the claimed expenditures.

7. Recovery of Overpayments

A. The Contractor agrees that claims based upon the terms of this Agreement or an audit finding and/or an audit finding that is appealed and upheld, will be recovered by the State by one of the following options:

Exhibit B
Budget Detail and Payment Provisions

1) The Contractor's remittance to the State of the full amount of the audit exception within thirty (30) days following the State's request for repayment;

2) A repayment schedule that is agreeable to both the State and the Contractor; or

3) The State may offset the amount of the audit finding by reducing any outstanding invoice from the Contractor by that amount.

B. The State reserves the right to select which option (as indicated above in paragraph A) will be employed and the Contractor will be notified by the State, in writing, of the claim procedure to be utilized. Guidelines for recovery of overpayment are detailed in WIC policies and procedures.

C. Interest on the unpaid balance of the audit finding or debt will accrue at a rate equal to the monthly average of the rate received on investments in the Pooled Money Investment Fund commencing on the date that an audit or an examination finding is mailed to the Contractor, beginning thirty (30) days after the Contractor's receipt of the State's demand for repayment.

D. If the Contractor has filed an appeal regarding the report of audit findings, recovery of the overpayments will be deferred until a final administrative decision on the appeal has been reached. If the Contractor loses the final administrative decision, the Contractor shall repay, to the State, the over-claimed or disallowed expenses, plus the accrued interest. Interest accrues from the Contractor's first receipt of the State's notice requesting reimbursement of questioned audit costs or disallowed expenses.

Insert Local Agency Name
XX-XXXXX

Exhibit B, Attachment I
Budget

	Year 1	Year 2	Year 3	Year 4	Totals
	10/1/2015 - 9/30/2016	10/1/2016 - 9/30/2017	10/1/2017 - 9/30/2018	10/1/2018 - 9/30/2019	
Personnel	**Budget**	**Budget**	**Budget**	**Budget**	
Total Salaries and Wages	-	-	-	-	-
Fringe Benefits	-	-	-	-	-
Personnel	**-**	**-**	**-**	**-**	**-**
Operating Expenses	**Budget**	**Budget**	**Budget**	**Budget**	**Totals**
Minor Equipment	-	-	-	-	-
General Office Expenses	-	-	-	-	-
Training	-	-	-	-	-
Travel	-	-	-	-	-
Professional Certifications	-	-	-	-	-
Outreach	-	-	-	-	-
Media/Promotion	-	-	-	-	-
Program Materials	-	-	-	-	-
Vehicle Maintenance	-	-	-	-	-
Audit	-	-	-	-	-
Facility Costs (See Exhibit B Attachment III for breakdown)	-	-	-	-	-
Operating Expenses	**-**	**-**	**-**	**-**	**-**
Major Equipment	**Budget**	**Budget**	**Budget**	**Budget**	**Totals**
Telephone System	-	-	-	-	-
Information Technology Equipment	-	-	-	-	-
Vehicle (s)	-	-	-	-	-
Photocopy Equipment	-	-	-	-	-
Major Equipment	**-**	**-**	**-**	**-**	**-**
Subcontracts	**Budget**	**Budget**	**Budget**	**Budget**	**Totals**
Subcontracts	**-**	**-**	**-**	**-**	**-**
Indirect Costs	**Budget**	**Budget**	**Budget**	**Budget**	**Totals**
	-	**-**	**-**	**-**	**-**
TOTAL COSTS	**-**	**-**	**-**	**-**	**-**

Insert Local Agency Name
XX-XXXXX

Exhibit B, Attachment II
Detail Worksheet

				Year 1		Year 2		Year 3		Year 4		Totals
				10/1/2015 - 9/30/2016		10/1/2016 - 9/30/2017		10/1/2017 - 9/30/2018		10/1/2018 - 9/30/2019		
Personnel	**Exhibit A**	**Exhibit A**	**Annual Salary**									
Position Title	**SOW 6.A**	**Attachment I**	**Range**	**FTE**	**Budget**	**FTE**	**Budget**	**FTE**	**Budget**	**FTE**	**Budget**	
-	0	0	-	-	-	-	-	-	-	-	-	-
-	0	0	-	-	-	-	-	-	-	-	-	-
-	0	0	-	-	-	-	-	-	-	-	-	-
-	0	0	-	-	-	-	-	-	-	-	-	-
-	0	0	-	-	-	-	-	-	-	-	-	-
Overtime ③	0	0			-		-		-		-	-
Total Salaries and Wages					**-**		**-**		**-**		**-**	**-**
Fringe Benefits ④				**Percentage**	**Budget**	**Percentage**	**Budget**	**-**	**Budget**	**-**	**Budget**	
				0%	-	0%	-	0%	-	0%	-	**-**
Total Personnel					**-**		**-**		**-**		**-**	**-**
Operating Expenses	**Exhibit A SOW**	**Exhibit A Attachment I**			**Budget**		**Budget**		**Budget**		**Budget**	
Minor Equipment ⑤	17, 18				-		-		-		-	-
General Office Expenses	EXA1.C, 17, 18				-		-		-		-	-
Training		6			-		-		-		-	-
Travel	8				-		-		-		-	-
Professional Certifications	4, 5				-		-		-		-	-
Outreach		5			-		-		-		-	-
Media/Promotion		5			-		-		-		-	-
Program Materials	6	2-5, 7			-		-		-		-	-
Vehicle Maintenance⑥	19				-		-		-		-	-
Audit	9, 10, 12-14				-		-		-		-	-
Facility Costs (See Exhibit B Attachment III for breakdown) ⑦	11				-		-		-		-	-
Total Operating Expenses					**-**		**-**		**-**		**-**	**-**

Exhibit B, Attachment II
Detail Worksheet

			Year 1		Year 2		Year 3		Year 4		Totals
			10/1/2015 - 9/30/2016		10/1/2016 - 9/30/2017		10/1/2017 - 9/30/2018		10/1/2018 - 9/30/2019		
Major Equipment ⑧	**Exhibit A SOW**	**Exhibit A Attachment I**		**Budget**		**Budget**		**Budget**		**Budget**	
Telephone System	17			-		-		-		-	-
Information Technology Equipment	17, 18, 20, 21			-		-		-		-	-
Vehicle (s)	8, 17, 18, 19			-		-		-		-	-
Photocopy Equipment	6, 17, 18			-		-		-		-	-
Total Major Equipment				-		-		-		-	-
Subcontracts ⑨	**Exhibit A SOW**	**Exhibit A Attachment I**		**Budget**		**Budget**		**Budget**		**Budget**	
-	0	0		-		-		-		-	-
-	0	0		-		-		-		-	-
-	0	0		-		-		-		-	-
-	0	0		-		-		-		-	-
Total Subcontracts				-		-		-		-	-
Total Indirect Costs			**Percentage**	**Budget**	**Percentage**	**Budget**	**Percentage**	**Budget**	**Percentage**	**Budget**	
	% of Total	-	0.0000%	-	0.0000%	-	0.0000%	-	0.0000%	-	-
Total Costs				-		-		-		-	-

① Bilingual - Positions that receive Bilingual pay will show a higher salary. Justification will be kept on file with the original contract.

② Longevity, Retention, Differential and COLA - Positions that receive these compensations will show a higher salary. Justification and Union Contract will be kept on file with the original contract.

③ Overtime - Is budgeted for up to a 3% increase for each year.

④ Fringe Benefits - Any fringe benefit Years 1-4 that exceeds 50% will need a written justification.

⑤ Minor Equipment - Desks, Computers, Chairs, Tables, Modular furniture, Monitors and Printers- Refer to Exhibit D(F) Page 3, Paragraph 3

⑥ Vehicle Maintenance - maintenance over $500 will need CDPH/WIC Division approval.

⑦ Facility Costs - Includes Rent, Janitorial, Security, Maintenance and Utilities

⑧ Major Equipment - Refer to Exhibit D(F) page 3, Paragraph 3 for instructions; Vehicle(S)-Will be used for Facility Site Visits, Conferences, Trainings, and Outreach.
#REF!

⑨ Subcontractors - List the subcontractor's name and short list of services provided. If the subcontractor has not been selected, enter TBD and list of services to be provided.

Exhibit B, Attachment III
Facility Costs

Insert Local Agency Name
XX-XXXXX

											Total Facility Costs:			-
			Year 1 Total Costs		-	Year 2 Total Costs		-	Year 3 Total Costs		-	Year 4 Total Costs		-
Street Address, City, Zip Code	Type of Space (Clinic Site, Administrative Site, Training Center, Warehouse, Storage Area, satellite clinic site)	Total Square Feet	Total Cost of Site Per Month	Price Per Square Foot	Cost of Space Per Year	Total Cost of Site Per Month	Price Per Square Foot	Cost of Space Per Year	Total Cost of Site Per Month	Price Per Square Foot	Cost of Space Per Year	Total Cost of Site Per Month	Price Per Square Foot	Cost of Space Per Year
	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-	-	-	-	-	-
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STATE OF CALIFORNIA

Exhibit B, Attachment IV
Invoice Sample

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH
WIC SUPPLEMENTAL NUTRITION PROGRAM
3901 Lennane Drive, Sacramento, CA 95834

INVOICE
Budget Period 10/01/15 - 09/30/16

Contractor's Name: **Sample Local Agency**
Contractor's Address: 1234 WIC Road
Sacramento, CA 95834

Date Invoice Generated by State:
October 1, 2015

Local Agency Use Only:

Invoice Date:
Invoice Number: **#01**
Contract Number: **15-12345**
Vendor Number: **0000001234-56**
Billing Period:

Budget Line Items	Budgeted Amount			Year to Date Previously Invoiced	Amount Requested Non-Restricted	Amounts Requested Restricted *	Total Amount Requested	Year to Date Invoiced		Remaining Budgeted Amount
1. PERSONNEL	$ -									
a) Salaries & Wages	$ -			$ -	$ -	$ -	$ -	$ -		$ -
b) Fringe Benefits	$ -			$ -	$ -	$ -	$ -	-		$ -
2. OPERATING EXPENSES	$ -			$ -	$ -	$ -	$ -	-		$ -
3. MAJOR EQUIPMENT	$ -			$ -	$ -	$ -	$ -	-		$ -
4. SUBCONTRACTS	$ -			$ -	$ -	$ -	$ -	-		$ -
5. INDIRECT COSTS (Maximum 13.8% of Total Personnel Costs, including Salaries, Wages, and Fringe Benefits.)	$ -			$ -	$ -	$ -	-	$		$ -
TOTALS	$ -			$ -	$	$ -	$	$ -		$ -

*[illegible] Withholdings Recovery
[illegible] Withhold
[illegible]nt to be Paid $ -

[1]Reason for Withhold/Recovery:

I certify this claim contains actual expenditures for allowable WIC Program costs performed in accordance with contract provisions. Sign in BLUE INK only.

Preparer's Signature | Preparer's Telephone | Agency Director's Signature (or designee) | Date

Print Preparer's Name | Email | Print Agency Director's Name

FOR STATE USE ONLY
APPROVED FOR PAYMENT

15-53303-5510-741-01-10557L-15	**15-53300-5510-741-01-10572L-15**	**14-53313-5510-741-01-10556L-14**
Billing Code	Billing Code	Billing Code
Local Assistance	**Farmers' Market**	**Peer Counseling**
Date / Amount	Date / Amount	Date / Amount
XX-XXXXX-XXXX-XXX-XX-XXXXXX-XX	XX-XXXXX-XXXX-XXX-XX-XXXXXX-X	**XX-XXXXX-XXXX-XXX-XX-XXXXXX-XX**
Billing Code	Billing Code	Billing Code
Date / Amount	Date / Amount	Date / Amount
AUTHORIZED SIGNATURE	AUTHORIZED SIGNATURE	AUTHORIZED SIGNATURE

SAMPLE

STATE OF CALIFORNIA

Exhibit B, Attachment IV
Invoice Sample

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH
WIC SUPPLEMENTAL NUTRITION PROGRAM
3901 Lennane Drive, Sacramento, CA 95834

INVOICE
Budget Period 10/01/15 - 09/30/16

Contractor's Name: **Sample Local Agency**
Contractor's Address: 1234 WIC Road
Sacramento, CA 95834

Date Invoice Generated by State:
October 1, 2015

Local Agency Use Only:

Invoice Date:
Invoice Number: **#01**
Contract Number: **15-12345**
Vendor Number: **0000001234-56**
Billing Period:

OTHER WIC SERVICES: **Breastfeeding Peer Counseling Program (53313)**

Budget Line Items	Budgeted Amount	Year to Date Previously Invoiced	Amounts Requested	Year to Date Invoiced	Remaining Budgeted Amount
1. PERSONNEL	$ 201,343.71				$ 201,343.71
a) Salaries & Wages	$ 124,286.24	$ -	$ -	$ -	$ 124,286.24
b) Fringe Benefits	$ 77,057.47	$ -	$ -		$ 77,057.47
2. OPERATING EXPENSES	$ 1,548.78	$ -	$ -	-	$ 1,548.78
3. MAJOR EQUIPMENT	$ -	$ -	$ -	$ -	$ -
4. SUBCONTRACTS	$ -	$ -	$ -	$ -	$ -
5. INDIRECT COSTS (Maximum 13.8% of Total Personnel Costs, including Salaries, Wages, and Fringe Benefits.)	$ 37,107.51	$ -	$ -	$ -	$ 37,107.51
TOTALS	$ 240,000.00	$ -	-	$ -	$ 240,000.00

OTHER WIC SERVICES: **Farmers' Market Nutrition Program (53300)**

Budget Line Items	Budgeted Amount	Year to Date Previously Invoiced	Amounts Requested	Year to Date Invoiced	Remaining Budgeted Amount
1. PERSONNEL					
a) Salaries & Wages		-	$ -	$ -	
b) Fringe Benefits		-	$ -	$ -	
2. OPERATING EXPENSES		$ -	$ -	$ -	
3. MAJOR EQUIPMENT		$ -	$ -	$ -	
4. SUBCONTRACTS		$ -	$ -	$ -	
5. INDIRECT COSTS (Maximum 13.8% of Total Personnel Costs, including Salaries, Wages, and Fringe Benefits.)		$ -	$ -	$ -	
TOTALS	$ 2,175.00	$ -	$ -	$ -	$ 2,175.00

SAMPLE

Exhibit B, Attachment V
ULO Sample

LIST OF UNLIQUIDATED OBLIGATIONS
Budget Period:
October 1, 2015 - September 30, 2016

Local Agency Name:
Contract Number.:

An Unliquidated Obligation (ULO) is a commitment to purchase tangible goods and/or services that *have not yet been paid*. Local Agencies *must have on file*, an invoice and/or purchase order that has been *signed and dated* on or before *September 30th,* to claim reimbursement for a budget period. A purchase *estimate* is not considered an obligation of funds.

NOTE: ***ULOs not reported on this Worksheet cannot be claimed for reimbursement at a later date. The ULO section on the Final Worksheet must total zero ($0) dollars.***

	VENDOR NAME	ITEM (S)	DOCUMENT NUMBER (Contract No, PO No,	ULO Amount
1				$ -
2				$ -
3				-
4				$ -
5				$ -
6				$ -
7				$ -
8				$ -
9				$ -
10				$ -
11				$ -
12				$ -
13				$ -
14				$ -
15				$ -
16				$ -
17				$ -
18				$ -
19				$ -
20				$ -
			TOTAL	**$ -**

SAMPLE

Special Terms and Conditions

(For federally funded service contracts or agreements and grant agreements)

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition.

The terms "contract", "Contractor" and "Subcontractor" shall also mean, “agreement”, "grant", “grant agreement”, "Grantee" and "Subgrantee" respectively.

The terms “California Department of Public Health” and “CDPH” shall have the same meaning and refer to the California State agency that is a party to this Agreement.

This exhibit contains provisions that require strict adherence to various contracting laws and policies. Some provisions herein are conditional and only apply if specified conditions exist (i.e., agreement total exceeds a certain amount, agreement is federally funded, etc.). The provisions herein apply to this Agreement unless the provisions are removed by reference on the face of this Agreement, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.

Index of Special Terms and Conditions

1. Federal Equal Employment Opportunity Requirements
2. Travel and Per Diem Reimbursement
3. Procurement Rules
4. Equipment Ownership / Inventory / Disposition
5. Subcontract Requirements
6. Income Restrictions
7. Audit and Record Retention
8. Site Inspection
9. Federal Contract Funds
10. Intellectual Property Rights
11. Air or Water Pollution Requirements
12. Prior Approval of Training Seminars, Workshops or Conferences
13. Confidentiality of Information
14. Documents, Publications, and Written Reports
15. Dispute Resolution Process
16. Financial and Compliance Audit Requirements
17. Human Subjects Use Requirements
18. Novation Requirements
19. Debarment and Suspension Certification
20. Smoke-Free Workplace Certification
21. Covenant Against Contingent Fees
22. Payment Withholds
23. Performance Evaluation
24. Officials Not to Benefit
25. Four-Digit Date Compliance
26. Prohibited Use of State Funds for Software
27. Use of Small, Minority Owned and Women's Businesses
28. Alien Ineligibility Certification
29. Union Organizing
30. Contract Uniformity (Fringe Benefit Allowability)
31. Lobbying Restrictions and Disclosure Certification
32. Additional Restrictions
33. Federal Requirements

1. Federal Equal Opportunity Requirements

a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or CDPH, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.

b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.

c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, ‘Amending Executive Order 11246 Relating to Equal Employment Opportunity,‘ and as supplemented by regulation at 41 CFR part 60, “Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” and of the rules, regulations, and relevant orders of the Secretary of Labor.

e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, ‘Amending Executive Order 11246 Relating to Equal Employment Opportunity,‘ and as supplemented by regulation at 41 CFR part 60, “Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, ‘Amending Executive Order 11246 Relating to Equal Employment Opportunity,‘ and as supplemented by regulation at 41 CFR part 60, “Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, ‘Amending

Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or CDPH may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by CDPH, the Contractor may request in writing to CDPH, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

2. Travel and Per Diem Reimbursement

Reimbursement for travel and per diem expenses from CDPH under this Agreement shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Human Resources (CalHR), for nonrepresented state employees as stipulated in CDPH's Travel Reimbursement Information Exhibit. If the CalHR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to CalHR rates may be approved by CDPH upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization from CDPH. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

3. Procurement Rules

(Applicable to all agreements in which equipment, property, commodities and/or supplies are furnished by CDPH or expenses for said items are reimbursed with state or federal funds.)

a. **Equipment definitions**

Wherever the term equipment /property is used, the following definitions shall apply:

(1) **Major equipment/property**: A tangible or intangible item having a base unit cost of **$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.

(2) **Minor equipment/property**: A tangible item having a base unit cost of **less than $5,000** with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement.

b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment and services related to such purchases for performance under this Agreement.

(1) Equipment purchases shall not exceed $50,000 annually.

To secure equipment above the annual maximum limit of $50,000, the Contractor shall make arrangements through the appropriate CDPH Program Contract Manager, to have all remaining equipment purchased through CDPH's Purchasing Unit. The cost of equipment purchased by or through CDPH shall be deducted from the funds available in this Agreement. Contractor shall submit to the CDPH Program Contract Manager a list of equipment specifications for those items that the State must procure. The State may pay the vendor directly for such arranged equipment purchases and title to the equipment will remain with CDPH. The equipment will be delivered to the Contractor's

address, as stated on the face of the Agreement, unless the Contractor notifies the CDPH Program Contract Manager, in writing, of an alternate delivery address.

(2) All equipment purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment purchases are delegated to subcontractors that are either a government or public entity.

(3) Nonprofit organizations and commercial businesses, shall use a procurement system that meets the following standards:

(a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.

(b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.

(c) Procurements shall be conducted in a manner that provides for all of the following:

[1] Avoid purchasing unnecessary or duplicate items.

[2] Equipment solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.

[3] Take positive steps to utilize small and veteran owned businesses.

d. Unless waived or otherwise stipulated in writing by CDPH, prior written authorization from the appropriate CDPH Program Contract Manager will be required before the Contractor will be reimbursed for any purchase exceeding $2,500 for commodities, supplies, equipment, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by CDPH, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.

e. In special circumstances, determined by CDPH (e.g., when CDPH has a need to monitor certain purchases, etc.), CDPH may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. CDPH reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that CDPH determines to be unnecessary in carrying out performance under this Agreement.

f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.

g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.

h. CDPH may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

4. Equipment Ownership / Inventory / Disposition

(Applicable to agreements in which equipment and/or property is furnished by CDPH and/or when said items are purchased or reimbursed with state or federal funds.)

a. Wherever the terms equipment and/or property are used in Provision 4, the definitions in Provision 3, Paragraph a, shall apply.

Unless otherwise stipulated in this Agreement, all equipment and/or property that are purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement shall be considered state equipment and the property of CDPH.

(1) CDPH requires the reporting, tagging and annual inventorying of all equipment and/or property that is furnished by CDPH or purchased/reimbursed with funds provided through this Agreement.

Upon receipt of equipment and/or property, the Contractor shall report the receipt to the CDPH Program Contract Manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by CDPH's Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with CDPH Funds) does not accompany this Agreement, Contractor shall request a copy from the CDPH Program Contract Manager.

(2) If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or property to the CDPH Program Contract Manager using a form or format designated by CDPH's Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of CDPH-Funded Equipment) does not accompany this Agreement, Contractor shall request a copy from the CDPH Program Contract Manager. Contractor shall:

(a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).

(b) Submit the inventory report to CDPH according to the instructions appearing on the inventory form or issued by the CDPH Program Contract Manager.

(c) Contact the CDPH Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by CDPH's Asset Management Unit.

b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.

c. Unless otherwise stipulated, CDPH shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.

d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.

(1) In administering this provision, CDPH may require the Contractor and/or Subcontractor to repair or replace, to CDPH's satisfaction, any damaged, lost or stolen state equipment and/or property. Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the CDPH Program Contract Manager.

e. Unless otherwise stipulated by the program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, shall only be used for performance of this Agreement or another CDPH agreement.

f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor shall provide a final inventory report of equipment and/or property to the CDPH Program Contract Manager and shall, at that time, query CDPH as to the requirements, including the manner and method, of returning state equipment and/or property to CDPH. Final disposition of equipment and/or property shall be at CDPH expense and according to CDPH instructions. Equipment and/or property disposition instructions shall be issued by CDPH immediately after receipt of the final inventory report. At the termination or

conclusion of this Agreement, CDPH may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different CDPH agreement.

g. **Motor Vehicles**

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by CDPH under this Agreement.)

(1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor shall return such vehicles to CDPH and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to CDPH.

(2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor may only use said vehicles for performance and under the terms of this Agreement.

(3) The Contractor agrees that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.

(4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, the Contractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's possession:

Automobile Liability Insurance

(a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of $1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, to the Contractor.

(b) The Contractor shall, as soon as practical, furnish a copy of the certificate of insurance to the CDPH Program Contract Manager. The certificate of insurance shall identify the CDPH contract or agreement number for which the insurance applies.

(c) The Contractor agrees that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to CDPH.

(d) The Contractor agrees to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.

(e) The Contractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:

[1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Public Health (CDPH)).

[2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.

[3] The insurance carrier shall notify CDPH, in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.

(f) The Contractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by CDPH, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.

(g) In the event the Contractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, CDPH may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

5. Subcontract Requirements

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services exceeding $2,500. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding $2,500, the Contractor shall obtain at least three bids or justify a sole source award.

(1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.

(2) The State may identify the information needed to fulfill this requirement.

(3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:

(a) A local governmental entity or the federal government,
(b) A State college or university from any State,
(c) A Joint Powers Authority,
(d) An auxiliary organization of a California State University or a California community college,
(e) A foundation organized to support the Board of Governors of the California Community Colleges,
(f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
(g) Entities of any type that will provide subvention aid or direct services to the public,
(h) Entities and/or service types identified as exempt from advertising in State Contracting Manual 5.80. View this publication at the following Internet address:

http://www.ols.dgs.ca.gov/Contract+Manual/Chapters4through6.htm.

(i) Entities whose name and budgeted costs have been submitted to CDPH in response to a competitive solicitation.

b. CDPH reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.

(1) Upon receipt of a written notice from CDPH requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by CDPH.

c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) exceeding $2,500 are subject to prior review and written approval of CDPH. CDPH may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by CDPH.

d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by CDPH, make copies available for approval, inspection, or audit.

e. CDPH assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.

f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.

g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.

h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

"(*Subcontractor Name*) agrees to maintain and preserve, until three years after termination of (*Agreement Number*) and final payment from CDPH to the Contractor, to permit CDPH or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."

i. Unless otherwise stipulated in writing by CDPH, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.

j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, 31 and 33 or other numbered provisions herein that deemed applicable.

6. Income Restrictions

Unless otherwise stipulated in this Agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to CDPH, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by CDPH under this Agreement.

7. Audit and Record Retention

(Applicable to agreements in excess of $10,000.)

a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.

b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.

c. Contractor agrees that CDPH, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896).

d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as

is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.

(1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.

(2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.

e. The Contractor and/or Subcontractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.

f. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

g. The Contractor shall, if applicable, comply with the Single Audit Act and the audit reporting requirements set forth in Title 2 of the Code of Federal Regulations, Part 200 (2CFR Part 200).

8. Site Inspection

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

9. Federal Contract Funds

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.

b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.

c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.

d. CDPH has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

10. Intellectual Property Rights

a. Ownership

(1) Except where CDPH has agreed in a signed writing to accept a license, CDPH shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement.

(2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

(a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.

(3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of CDPH's Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of CDPH's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of CDPH. **Except as otherwise set forth herein, neither the Contractor nor CDPH shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to CDPH, Contractor agrees to abide by all license and confidentiality restrictions applicable to CDPH in the third-party's license agreement.

(4) Contractor agrees to cooperate with CDPH in establishing or maintaining CDPH's exclusive rights in the Intellectual Property, and in assuring CDPH's sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to CDPH all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or CDPH and which result directly or indirectly from this Agreement or any subcontract.

(5) Contractor further agrees to assist and cooperate with CDPH in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce CDPH's Intellectual Property rights and interests.

b. Retained Rights / License Rights

(1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective

date of this Agreement. Contractor hereby grants to CDPH, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.

(2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of CDPH or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

c. Copyright

(1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to CDPH to any work product made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement.

(2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement, shall include CDPH's notice of copyright, which shall read in 3mm or larger typeface: "© *[Enter Current Year e.g., 2007, etc.]*, Department of Public Health. This material may not be reproduced or disseminated without prior written permission from the Department of Public Health." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

d. Patent Rights

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to CDPH a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to CDPH, without additional compensation, all its right, title and interest in and to such inventions and to assist CDPH in securing United States and foreign patents with respect thereto.

e. Third-Party Intellectual Property

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining CDPH's prior written approval; and (ii) granting to or obtaining for CDPH, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon the these terms is unattainable, and CDPH determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to CDPH.

f. Warranties

(1) Contractor represents and warrants that:

(a) It is free to enter into and fully perform this Agreement.

(b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.

(c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

(d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.

(e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.

(f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to CDPH in this Agreement.

(g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

(h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.

(2) CDPH MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

g. Intellectual Property Indemnity

(1) Contractor shall indemnify, defend and hold harmless CDPH and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of CDPH's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued

after the effective date of this Agreement. CDPH reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against CDPH.

(2) Should any Intellectual Property licensed by the Contractor to CDPH under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve CDPH's right to use the licensed Intellectual Property in accordance with this Agreement at no expense to CDPH. CDPH shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for CDPH to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, CDPH shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.

(3) Contractor agrees that damages alone would be inadequate to compensate CDPH for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges CDPH would suffer irreparable harm in the event of such breach and agrees CDPH shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

h. Federal Funding

In any agreement funded in whole or in part by the federal government, CDPH may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

i. Survival

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

11. Air or Water Pollution Requirements

Any federally funded agreement and/or subcontract in excess of $100,000 must comply with the following provisions unless said agreement is exempt under 40 CFR 15.5.

a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act [42 U.S.C. 1857(h)], section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

12. Prior Approval of Training Seminars, Workshops or Conferences

Contractor shall obtain prior CDPH approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this Agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this Agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor or Subcontractor to conduct routine business matters.

13. Confidentiality of Information

a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.

b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.

c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the CDPH Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.

d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than CDPH without prior written authorization from the CDPH Program Contract Manager, except if disclosure is required by State or Federal law.

e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

f. As deemed applicable by CDPH, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

14. Documents, Publications and Written Reports

(Applicable to agreements over $5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds $5,000.

15. Dispute Resolution Process

a. A Contractor grievance exists whenever there is a dispute arising from CDPH's action in the administration of an agreement. If there is a dispute or grievance between the Contractor and CDPH, the Contractor must seek resolution using the procedure outlined below.

(1) The Contractor should first informally discuss the problem with the CDPH Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.

(2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The

Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.

b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Division 2, Chapter 2, Article 3 (commencing with Section 1140) of the California Code of Regulations).

c. Disputes arising out of an audit, examination of an agreement or other action not covered by subdivision (a) of Section 20204, of Chapter 2.1, Title 22, of the California Code of Regulations, and for which no procedures for appeal are provided in statute, regulation or the Agreement, shall be handled in accordance with the procedures identified in Sections 51016 through 51047, Title 22, California Code of Regulations.

d. Unless otherwise stipulated in writing by CDPH, all dispute, grievance and/or appeal correspondence shall be directed to the CDPH Program Contract Manager.

e. There are organizational differences within CDPH's funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the CDPH Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

16. Financial and Compliance Audit Requirements

a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.

b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code section 38030).

c. The Contractor, as indicated below, agrees to obtain one of the following audits:

(1) <u>If the Contractor is a nonprofit organization</u> (as defined in H&S Code section 38040) <u>and receives **$25,000 or more** from any State agency under a direct service contract or agreement</u>; the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**

(2) <u>If the Contractor is a nonprofit organization</u> (as defined in H&S Code section 38040) <u>and receives **less than $25,000** per year from any State agency under a direct service contract or agreement</u>, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**

(3) <u>If the Contractor is a State or Local Government entity or Nonprofit organization</u> (as defined in 2CFR Part 200) <u>and expends $750,000 or more in Federal awards</u>, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in 2CFR Part 200. An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:

(a) The Contractor is a recipient expending Federal awards received directly from Federal awarding

agencies, or

(b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.

(4) If the Contractor submits to CDPH a report of an audit other than a single audit, the Contractor must also submit a certification indicating the Contractor has not expended $750,000 or more in federal funds for the year covered by the audit report.

d. Two copies of the audit report shall be delivered to the CDPH program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the CDPH Program Contract Manager shall forward the audit report to CDPH's Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.

e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The CDPH program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.

f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.

g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.

h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.

i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.

j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.

k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

17. Human Subjects Use Requirements

(Applicable only to federally funded agreements/grants in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this Agreement, Contractor agrees that if any performance under this Agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

18. Novation Requirements

If the Contractor proposes any novation agreement, CDPH shall act upon the proposal within 60 days after receipt of the written proposal. CDPH may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, CDPH will initiate an amendment to this Agreement to formally implement the approved proposal.

19. Debarment and Suspension Certification

(Applicable to all agreements funded in part or whole with federal funds.)

a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 7 CFR Part 3017, 45 CFR 76, 40 CFR 32 or 34 CFR 85.

b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

(2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and

(4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

(5) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.

(6) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the CDPH Program Contract Manager.

d. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.

e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the CDPH may terminate this Agreement for cause or default.

20. Smoke-Free Workplace Certification

(Applicable to federally funded agreements/grants and subcontracts/subawards, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.

b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.

c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.

d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

21. Covenant Against Contingent Fees

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, CDPH shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

22. Payment Withholds

(Applicable only if a final report is required by this Agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this Agreement, CDPH may, at its discretion, withhold 10 percent (10%) of the face amount of the Agreement, 50 percent (50%) of the final invoice, or $3,000 whichever is greater, until CDPH receives a final report that meets the terms, conditions and/or scope of work requirements of this Agreement.

23. Performance Evaluation

(Not applicable to grant agreements.)

CDPH may, at its discretion, evaluate the performance of the Contractor at the conclusion of this Agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with CDPH. Negative performance evaluations may be considered by CDPH prior to making future contract awards.

24. Officials Not to Benefit

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

25. Four-Digit Date Compliance

(Applicable to agreements in which Information Technology (IT) services are provided to CDPH or if IT equipment is procured.)

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

26. Prohibited Use of State Funds for Software

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

27. Use of Small, Minority Owned and Women's Businesses

(Applicable to that portion of an agreement that is federally funded and entered into with institutions of higher education, hospitals, nonprofit organizations or commercial businesses.)

Positive efforts shall be made to use small businesses, minority-owned firms and women's business enterprises, whenever possible (i.e., procurement of goods and/or services). Contractors shall take all of the following steps to further this goal.

(1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

(2) Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

(5) Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

28. Alien Ineligibility Certification

(Applicable to sole proprietors entering federally funded agreements.)

By signing this Agreement, the Contractor certifies that he/she is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act. (8 U.S.C. 1601, et seq.)

29. Union Organizing

(Applicable only to grant agreements.)

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.

b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.

c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.

d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

30. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, CDPH sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.

b. As used herein, fringe benefits do not include:

(1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
(2) Director's and executive committee member's fees.
(3) Incentive awards and/or bonus incentive pay.
(4) Allowances for off-site pay.
(5) Location allowances.
(6) Hardship pay.
(7) Cost-of-living differentials

c. Specific allowable fringe benefits include:

(1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.

d. To be an allowable fringe benefit, the cost must meet the following criteria:

(1) Be necessary and reasonable for the performance of the Agreement.
(2) Be determined in accordance with generally accepted accounting principles.
(3) Be consistent with policies that apply uniformly to all activities of the Contractor.

e. Contractor agrees that all <u>fringe benefits</u> shall be at <u>actual cost</u>.

f. Earned/Accrued Compensation

(1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See section f (3)(a) below for an example.

(2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.

(3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

(a) **Example No. 1:**

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

(b) **Example No. 2:**
If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

(c) **Example No. 3:**
If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to CDPH, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

31. Lobbying Restrictions and Disclosure Certification

(Applicable to federally funded agreements in excess of $100,000 per Section 1352 of the 31, U.S.C.)

a. Certification and Disclosure Requirements

(1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds $100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.

(2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.

(3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:

(a) A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;

(b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or

(c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.

(4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding $100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.

(5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to CDPH Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

32. Additional Restrictions

(Applicable to all contracts funded in whole or in part with funding from the federal Departments of Labor, Health and Human Services (including CDC funding), or Education.)

Contractor shall comply with the restrictions under Division F, Title V, Section 503 of the Consolidated Appropriations Act, 2012 (H.R. 2055), which provides that:

"SEC. 503.(a) No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111–148 shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the Congress or any State or local legislature or legislative body, except in presentation to the Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government, except in presentation to the executive branch of any State or local government itself.

(b) No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111–148 shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

(c) The prohibitions in subsections (a) and (b) shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control."

33. Federal Requirements

Contractor agrees to comply with and shall require all subcontractors, if any, to comply with all applicable Federal requirements including but not limited to the United States Code, the Code of Federal Regulations, the Funding Opportunity Announcement, the Notice of Award, the funding agreement, and any memoranda or letter regarding the applicable Federal requirements.

Attachment 1

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, “Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of $100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Name of Contractor	Printed Name of Person Signing for Contractor
Contract / Grant Number	Signature of Person Signing for Contractor
Date	Title

After execution by or on behalf of Contractor, please return to:

California Department of Public Health

CDPH reserves the right to notifiy the contractor in writing of an alternate submission address.

Attachment 2

CERTIFICATION REGARDING LOBBYING

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

Approved by OMB
0348-0046

1. Type of Federal Action: [ ] a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: [ ] a. bid/offer/application b. initial award c. post-award	3. Report Type: [ ] a. initial filing b. material change For Material Change Only: Year _____ quarter _____ date of last report _____.
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier ___, if known: Congressional District, If known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, If known:	
6. Federal Department/Agency	7. Federal Program Name/Description: CDFA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: $	
10.a. Name and Address of Lobbying Registrant *(If individual, last name, first name, MI)*:	b. Individuals Performing Services *(including address if different from 10a.* *(Last name, First name, MI):*	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. required disclosure shall be subject to a not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: Telephone No.: _____ Date: _____	
Federal Use Only	Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Exhibit E
Additional Provisions

1. Additional Incorporated Documents

The following documents and any subsequent updates are not attached, but are incorporated herein and made a part hereof by this reference. These documents may be updated periodically by the CDPH/WIC Division, as required by program directives. The CDPH/WIC Division shall provide the Contractor with copies of said documents and any periodic updates thereto, under separate cover. The CDPH/WIC Division will maintain on tile, all documents referenced herein and any subsequent updates.

A. The following applicable Federal statutes and regulations:

1) WIC Program Federal Statutes and WIC Program Federal Regulations authorized by the Child Nutrition Act (CNA) of 1966 (42 U.S.C section 1786) [http://law2.house.gov/search/criteria.shtml] and Title 7, Code of Federal Regulations (CFR), Part 246 [http://ecfr.gpoaccess.gov], respectively;

2) Farmers' Market Nutrition Program (FMNP) Federal Statutes, and FMNP Federal Regulations Title 17 , 42 U.S.C section 1786(m) authorized by the CNA of 1992. [http://law2.house.gov/search/criteria.shtml] and Title 7, CFR, Part 248 [http://ecfr.gpoaccess.gov], respectively;

3) Title 7, CFR, Part 3016; Uniform Federal Assistance Regulations, that implements the policies established by Office of Management and Budget (OMB) [http://ecfr.gpoaccess.gov];

4) US Department of Agriculture (USDA), Food and Nutrition Services (FNS) memos and policy documents [http://www.fns.usda.gov/fns]; and

5) OMB, Title 2, CFR, Subtitle A, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2CFR Part 200). The guidance supersedes and consolidates the requirements from OMB Circulars A-21, A-87, A-110, A- 122, A-89, A-102, A-133, and A-50. [http://www.whitehouse.gov/omb].

B. The following applicable State laws and regulations:

1) WIC Program State Statutes and WIC Program State Regulations (California Health and Safety Code (H&S) sections 123275 et. Seq. [http://www.leginfo.ca.gov/calaw.html] and Title 22, California Code of Regulations (CCR), Sections 40601 et. Seq. [http://www.leginfo.ca.gov/calaw.html], respectively;

2) FMNP State Statutes (H&S sections123279 et. Seq.) [http://www.leginfo.ca.gov/calaw.html]); and

3) Lactation Accommodation Law; California Labor Code: Division 2, Part 3, Chapter 3.8, Sections 1030-1033 [http://www.leginfo.ca.gov/.html/lab_table_of_contents.html].

Exhibit E
Additional Provisions

C. The following applicable State WIC Program and CDPH/WIC Division administrative rules, policies, and procedures:

1) WIC Policy and Procedure Manual (WPPM)
All updates issued as of the effective date of this Agreement, and any subsequent updates. This manual will be updated periodically by the CDPH/WIC Division, as required by program and/or Federal directives [http://www.wicworks.ca.gov/resources/resources_index.htm];

2) Any written directive(s) and/or instruction(s) issued by the CDPH/WIC Division to the Contractor (e.g., a revision to the WPPM via a letter to the Contractor);

3) The Graphic Standards Manual (GSM) for the WIC Program," containing information about the rules and formatting for reproducing the WIC logo and tagline
[http://www.wicworks.ca.gov/resources/resources_index.htm];

4) A completed Contract Application includes all exhibits/attachments [http://www.wicworks.ca.gov/resources/resources_index.htm].

2. Cancellation / Termination

A. This Agreement may be cancelled by the CDPH/WIC Division <u>without cause</u> upon 30 calendar days advance written notice to the Contractor.

B. The CDPH/WIC Division reserves the right to cancel or terminate this Agreement immediately <u>for cause</u>. The Contractor may submit a written request to terminate this Agreement only if the CDPH/WIC Division substantially fails to perform its responsibilities as provided herein.

C. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of this Agreement.

D. Agreement termination or cancellation shall be effective as of the date indicated in the CDPH/WIC Division's notification to the Contractor. The notice shall stipulate any final performance, invoicing, or payment requirements.

E. Upon receipt of a notice of termination or cancellation, the Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent Agreement costs.

F. In the event of early termination or cancellation, the Contractor shall be entitled to compensation for services performed satisfactorily under this Agreement and expenses incurred up to the date of cancellation and any non-cancelable obligations incurred in support of this Agreement.

Exhibit E
Additional Provisions

3. Avoidance of Conflicts of Interest by Contractor

A. The CDPH/WIC Division intends to avoid any real or apparent conflict of interest on the part of the Contractor, subcontractors, or employees, officers and directors of the Contractor or subcontractors. Thus, the CDPH/WIC Division reserves the right to determine, at its sole discretion, whether any information, assertion or claim received from any source indicates the existence of a real or apparent conflict of interest; and, if a conflict is found to exist, to require the Contractor to submit additional information or a plan for resolving the conflict, subject to the CDPH/WIC Division review and prior approval.

B. Conflicts of interest include, but are not limited to:

1) An instance where the Contractor or any of its subcontractors, or any employee, officer, or director of the Contractor or any subcontractor has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing services under the contract would allow for private or personal benefit or for any purpose that is contrary to the goals and objectives of the Agreement.

2) An instance where the Contractor's or any subcontractor's employees, officers, or directors use their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business or other ties.

C. If the CDPH/WIC Division is or becomes aware of a known or suspected conflict of interest, the Contractor will be given an opportunity to submit additional information or to resolve the conflict. A Contractor with a suspected conflict of interest will have five (5) working days from the date of notification of the conflict by the CDPH/WIC Division to provide complete information regarding the suspected conflict. If a conflict of interest is determined to exist by the CDPH/WIC Division and cannot be resolved to the satisfaction of the CDPH/WIC Division, the conflict will be grounds for terminating the contract. The CDPH/WIC Division may, at its discretion upon receipt of a written request from the Contractor, authorize an extension of the timeline indicated herein.

D. Any costs (including legal costs) incurred as a result of a conflict of interest determined by the court or by the State shall be the responsibility of the Contractor.

4. Insurance Requirements

The Contractor shall comply with the following insurance requirements:

A. Commercial General Liability

The Contractor shall maintain general liability on an occurrence form with limits not less than $1,000,000 per occurrence and $2,000,000 aggregate for bodily injury and property damage liability. The policy must include coverage for liabilities arising out of premises operations, independent contractors, products/completed operations,

Exhibit E
Additional Provisions

personal and advertising injury and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Contractor's limit of liability. The policy must include the following statement:

"The State of California, its officers, agents, and employees are included as additional insureds, but only with respect to work performed for the State of California under this Agreement."

This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management. In the case of the Contractor's utilization of subcontractors to complete the contracted scope of work, the Contractor shall include all subcontractors as insureds under the Contractor's insurance or supply evidence of insurance to the State equal to policies, coverage and limits required of the Contractor.

B. Automobile Liability

The Contractor shall maintain motor vehicle liability pursuant to Exhibit D(F), Provision 4.g. with limits not less than $1,000,000 per occurrence for bodily injury and property damage combined. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. The policy must include:

"The State of California, its officers, agents, and employees are included as additional insureds, but only with respect to work performed for the State of California under this Agreement."

C. Workers' Compensation and Employers' Liability

The Contractor shall maintain statutory workers' compensation and employers' liability for all its employees who will be engaged in the performance of the Agreement. Employers' liability limits of $1,000,000 are required. When work is performed on State owned or controlled property, the workers' compensation policy shall contain a waiver of subrogation in favor of the State. The waiver of subrogation endorsement shall be provided. If the Contractor is self-insured for worker's compensation, they must continue to hold the State harmless and waive their right to subrogate for any injuries to their employees.

D. The Contractor must furnish to the CDPH/WIC Division a certificate of insurance for the required insurances as detailed above, ensuring that they are presently in effect for the Contractor. The certificate of insurance must be issued by an insurance company acceptable to the Department of General Services (DGS) Office of Risk and Insurance Management or be provided through partial or total self-insurance acceptable to DGS.

E. The certificate of insurance must include the following provisions:

1) The Contractor is responsible to notify the CDPH/WIC Division within five (5)

business days of any cancellation, non-renewal or material change from the insurer that affects required insurance coverage, and

2) The State of California, its officers, agents, and employees are included as additional insureds, but only with respect to work performed for the State of California under this Agreement.

F. The Contractor agrees that the insurance required herein will remain in effect at all times during the term of the Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, the Contractor agrees to provide, at least thirty (30) calendar days before said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement or for a period of not less than one year. The CDPH/WIC Division may, in addition to any other remedies it may have, terminate this Agreement on the occurrence of such event. New certificates of insurance are subject to the approval of DGS, and the Contractor agrees that no work or services shall be performed prior to such approval.

G. The State will not be responsible for any premiums, deductibles, or assessments on the insurance policy.

5. Independent Research

A. The Contractor shall submit a request for and receive CDPH/WIC Division approval prior to conducting independent research or collaborating with an outside party, including a university or research institution, to conduct independent research collecting or using data from the CDPH/WIC Division or participants. Independent Research includes research, articles, reports, and materials that are not necessary for the performance of the Agreement. Independent research is produced by the Contractor, subcontractor and/or outside entity using data from WIC that has been obtained directly from WIC participants, WIC staff, and/or WIC vendors through a variety of means including but not limited to surveys, focus groups, and interviews or indirectly using the CDPH/WIC Division authorized management information system regardless of the funding source.

B. If the research request is approved, all presentations and publications based on that research must be approved by the CDPH/WIC Division before publication, presentation or distribution.

C. Items A. and B. of this section address research studies conducted independently of the CDPH/WIC Division, and not potential research projects solicited and administered by the CDPH/WIC Division.

D. The Contractor agrees if WIC funds are used to perform the research, then the CDPH/WIC Division is the sole owner of the data that is based on the research. Refer to Exhibit D(F), Provision 10 for information regarding Intellectual Property Rights.

Exhibit F

Contractor's Release

Instructions to Contractor:

With final invoice(s) submit one (1) original and one (1) copy. The original must bear the original signature of a person authorized to bind the Contractor. The additional copy may bear photocopied signatures.

Submission of Final Invoice

Pursuant to **contract number** _____ entered into between the State of California Department of Public Health (CDPH) and the Contractor (identified below), the Contractor does acknowledge that final payment has been requested via **invoice number(s)** _____, in the **amount(s) of $** _____ and **dated** _____
If necessary, enter "See Attached" in the appropriate blocks and attach a list of invoice numbers, dollar amounts and invoice dates.

Release of all Obligations

By signing this form, and upon receipt of the amount specified in the invoice number(s) referenced above, the Contractor does hereby release and discharge the State, its officers, agents and employees of and from any and all liabilities, obligations, claims, and demands whatsoever arising from the above referenced contract.

Repayments Due to Audit Exceptions / Record Retention

By signing this form, Contractor acknowledges that expenses authorized for reimbursement does not guarantee final allowability of said expenses. Contractor agrees that the amount of any sustained audit exceptions resulting from any subsequent audit made after final payment will be refunded to the State.

All expense and accounting records related to the above referenced contract must be maintained for audit purposes for no less than three years beyond the date of final payment, unless a longer term is stated in said contract.

Recycled Product Use Certification

By signing this form, Contractor certifies under penalty of perjury that a minimum of 0% unless otherwise specified in writing of post consumer material, as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether it meets the requirements of Public Contract Code Section 12209. Contractor specifies that printer or duplication cartridges offered or sold to the State comply with the requirements of Section 12156(e).

Reminder to Return State Equipment/Property (If Applicable)

(Applies only if equipment was provided by CDPH or purchased with or reimbursed by contract funds)

Unless CDPH has approved the continued use and possession of State equipment (as defined in the above referenced contract) for use in connection with another CDPH agreement, Contractor agrees to promptly initiate arrangements to account for and return said equipment to CDPH, at CDPH's expense, if said equipment has not passed its useful life expectancy as defined in the above referenced contract.

Patents / Other Issues

By signing this form, Contractor further agrees, in connection with patent matters and with any claims that are not specifically released as set forth above, that it will comply with all of the provisions contained in the above referenced contract, including, but not limited to, those provisions relating to notification to the State and related to the defense or prosecution of litigation.

ONLY SIGN AND DATE THIS DOCUMENT WHEN ATTACHING TO THE FINAL INVOICE

Contractor's Legal Name (as on contract): _____

Signature of Contractor or Official Designee: _____ Date: _____

Printed Name/Title of Person Signing: _____

CDPH Distribution: Accounting (Original) Program

Exhibit G

Information Privacy and Security Requirements
(For Non-HIPAA/HITECH Act Contracts)

This Information Privacy and Security Requirements Exhibit (For Non-HIPAA/HITECH Act Contracts) (hereinafter referred to as "this Exhibit") sets forth the information privacy and security requirements Contractor is obligated to follow with respect to all personal and confidential information (as defined herein) disclosed to Contractor, or collected, created, stored, transmitted or used by Contractor for or on **behalf** of the California Department of Public Health (hereinafter "CDPH"), pursuant to Contractor's agreement with CDPH. (Such personal and confidential information is referred to herein collectively as "CDPH PCI".) CDPH and Contractor desire to protect the privacy and provide for the security of CDPH PCI pursuant to this Privacy Exhibit and in compliance with state and federal laws applicable to the CDPH PCI.

I. Order of Precedence: With respect to information privacy and security requirements for all CDPH PCI, the terms and conditions of this Exhibit shall take precedence over any conflicting terms or conditions set forth in any other part of the agreement between Contractor and CDPH, including Exhibit A (Scope of Work), all other exhibits and any other attachments, and shall prevail over any such conflicting terms or conditions.

II. Effect on lower tier transactions: The terms of this Exhibit shall apply to all contracts, subcontracts, and subawards, and the information privacy and security requirements Contractor is obligated to follow with respect to CDPH PCI disclosed to Contractor, or collected, created, stored, transmitted or used by Contractor for or on behalf of CDPH, pursuant to Contractor's agreement with CDPH. When applicable the Contractor shall incorporate the relevant provisions of this Exhibit into each subcontract or subaward to its agents, subcontractors, or independent consultants.

III. Definitions: For purposes of the agreement between Contractor and CDPH, including this Exhibit, the following definitions shall apply:

A. Breach: "Breach" means:
   1. the unauthorized acquisition, access, use, or disclosure of CDPH PCI in a manner which compromises the security, confidentiality or integrity of the information; or
   2. the same as the definition of "breach of the security of the system" set forth in California Civil Code section 1798.29(f).

B. Confidential Information: "Confidential information" means information that:

   1. does not meet the definition of "public records" set forth in California Government Code section 6252(e), or is exempt from disclosure under any of the provisions of Section 6250, et seq. of he California Government Code or any other applicable state or federal laws; or
   2. is contained in documents, files, folders, books or records that are clearly labeled, marked or designated with the word "confidential" by CDPH; or
   3. is "personal information" as defined in this Exhibit.

C. Disclosure: "Disclosure" means the release, transfer, provision of, access to, or divulging in any other manner of information.

D. Personal Information: "Personal information" means information, in any medium (paper, electronic, oral) that:

   1. by itself directly identifies or uniquely describes an individual; or

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Information Privacy and Security Requirements
(For Non-HIPAA/HITECH Act Contracts)

2. creates a substantial risk that it could be used in combination with other information to indirectly identify or uniquely describe an individual, or link an individual to the other information; or
3. meets the definition of "personal information" set forth in California Civil Code section 1798.3(a) or
4. is one of the data elements set forth in California Civil Code section 1798.29(g)(1) or (g)(2); or
5. meets the definition of "medical information" set forth in either California Civil Code section 1798.29(h)(2) or California Civil Code section 56.05(g); or
6. meets the definition of "health insurance information" set forth in California Civil Code section 1798.29(h)(3); or
7. Is protected from disclosure under applicable state or federal law.

E. Security Incident: "Security Incident" means:

1. an attempted breach; or
2. the attempted or successful modification or destruction of CDPH PCI, in violation of any state or federal law or in a manner not permitted under the agreement between Contractor and CDPH, including this Exhibit; or
3. the attempted or successful modification or destruction of, or interference with, Contractor's system operations in an information technology system, that negatively impacts the confidentiality, availability or integrity of CDPH PCI.

F. Use: "Use" means the sharing, employment, application, utilization, examination, or analysis of information.

IV. Disclosure Restrictions: The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure any CDPH PCI. The Contractor shall not disclose, except as otherwise specifically permitted by the agreement between Contractor and CDPH (including this Exhibit), any CDPH PCI to anyone other than CDPH without prior written authorization from the CDPH Program Contract Manager, except if disclosure is required by State or Federal law.

V. Use Restrictions: The Contractor and its employees, agents, or subcontractors shall not use any CDPH PCI for any purpose other than carrying out the Contractor's obligations under its agreement with CDPH.

VI. Safeguards: The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the privacy, confidentiality, security, integrity, and availability of CDPH PCI, including electronic or computerized CDPH PCI. At each location where CDPH PCI is located, the Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities in performing its agreement with CDPH, including this Exhibit, and which incorporates the requirements of Section VII, Security, below. Contractor shall provide CDPH with Contractor's current and updated policies.

VII. Security: The Contractor shall take any and all steps reasonably necessary to ensure the continuous security of all computerized data systems containing CDPH PCI. These steps shall include, at a minimum, complying with all of the data system security precautions listed in the Contractor Data Security Standards set forth in Attachment 1 to this Exhibit.

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VIII. Security Officer: At each location where CDPH PCI is located, the Contractor shall designate a Security Officer to oversee its compliance with this Exhibit and for communicating with CDPH on matters concerning this Exhibit.

IX. Training: The Contractor shall provide training on its obligations under this Exhibit, at its own expense, to all of its employees who assist in the performance of Contractor's obligations under Contractor's agreement with CDPH, including this Exhibit, or otherwise use or disclose CDPH PCI.

A. The Contractor shall require each employee who receives training to certify, either in hard copy or electronic form, the date on which the training was completed.
B. The Contractor shall retain each employee's certifications for CDPH inspection for a period of three years following contract termination.

X. Employee Discipline: Contractor shall impose discipline that it deems appropriate (in its sole discretion) on such employees and other Contractor workforce members under Contractor's direct control who intentionally violate any provisions of this Exhibit.

XI. Breach and Security Incident Responsibilities:

A. Notification to CDPH of Breach or Security Incident: The Contractor shall notify CDPH **immediately by telephone call plus email or fax** upon the discovery of a breach (as defined in this Exhibit), **or** within **twenty-four (24) hours by email or fax** of the discovery of any security incident (as defined in this Exhibit), unless a law enforcement agency determines that the notification will impede a criminal investigation, in which case the notification required by this section shall be made to CDPH immediately after the law enforcement agency determines that such notification will not compromise the investigation. Notification shall be provided to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Chief Information Security Officer, using the contact information listed in Section XI(c), below. If the breach or security incident is discovered after business hours or on a weekend or holiday and involves CDPH PCI in electronic or computerized form, notification to CDPH shall be provided by calling the CDPH IIT Service Desk at the telephone numbers listed in Section XI(c), below. For purposes of this Section, breaches and security incidents shall be treated as discovered by Contractor as of the first day on which such breach or security incident is known to the Contractor.

Contractor shall take:

1. prompt corrective action to mitigate any risks or damages involved with the breach or security incident and to protect the operating environment; and
2. any action pertaining to a breach required by applicable federal and state laws, including, specifically, California Civil Code section 1798.29.

B. Investigation of Breach: The Contractor shall immediately investigate such breach or security incident. As soon as the information is known and subject to the legitimate needs of law enforcement, Contractor shall inform the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Chief Information Security Officer of:

1. what data elements were involved and the extent of the data involved in the breach, including, specifically, the number of individuals whose personal information was breached; and

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2. a description of the unauthorized persons known or reasonably believed to have improperly used the CDPH PCI and/or a description of the unauthorized persons known or reasonably believed to have improperly accessed or acquired the CDPH PCI, or to whom it is known or reasonably believe have had the CDPH PCI improperly disclosed to them; and
3. a description of where the CDPH PCI is believed to have been improperly used or disclosed; and
4. a description of the probable causes of the breach or security incident; and
5. whether Civil Code sections 1798.29 or any other federal or state laws requiring individual notifications of breaches have been triggered.

C. Written Report: The Contractor shall provide a written report of the investigation to the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Chief Information Security Officer as soon as practicable after the discovery of the breach or security incident. The report shall include, but not be limited to, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the breach or security incident, and measures to be taken to prevent the recurrence of such breach or security incident.

D. Notification to Individuals: If notification to individuals whose information was breached is required under state or federal law, and regardless of whether Contractor is considered only a custodian and/or non-owner of the CDPH PCI, Contractor shall, at its sole expense, and at the sole election of CDPH, either:

1. make notification to the individuals affected by the breach (including substitute notification), pursuant to the content and timeliness provisions of such applicable state or federal breach notice laws. Contractor shall inform the CDPH Privacy Officer of the time, manner and content of any such notifications, prior to the transmission of such notifications to the individuals; or
2. cooperate with and assist CDPH in its notification (including substitute notification) to the individuals affected by the breach.

E. Submission of Sample Notification to Attorney General: If notification to more than 500 individuals is required pursuant to California Civil Code section 1798.29, and regardless of whether Contractor is considered only a custodian and/or non-owner of the CDPH PCI, Contractor shall, at its sole expense, and at the sole election of CDPH, either:

1. electronically submit a single sample copy of the security breach notification, excluding any personally identifiable information, to the Attorney General pursuant to the format. content and timeliness provisions of Section 1798.29(e). Contractor shall inform the CDPH Privacy Officer of the time, manner and content of any such submissions, prior to the transmission of such submissions to the Attorney General; or
2. cooperate with and assist CDPH in its submission of a sample copy of the notification to the Attorney General.

F. CDPH Contact Information: To direct communications to the above referenced CDPH staff, the Contractor shall initiate contact as indicated herein. CDPH reserves the right to make changes to the contact information below by written notice to the Contractor. Said changes shall not require an amendment to this Exhibit or the agreement to which it is incorporated.

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Information Privacy and Security Requirements
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CDPH Program Contract Manager	**CDPH Privacy Officer**	**CDPH Chief Information Security Officer (and CDPH IT Service Desk)**
See the Scope of Work exhibit for Program Contract Manager	Privacy Officer Privacy Office, c/o Office of Legal Services California Department of Public Health P.O. Box 997377, MS 0506 Sacramento, CA 95899-7377 Email: privacy@cdph.ca.gov Telephone: (877) 421-9634	Chief Information Security Officer Information Security Office California Department of Public Health P.O. Box 997413, MS 6302 Sacramento, CA 95899-7413 Email: cdphiso@cdph.ca.gov Telephone: IT Service Desk (916) 440-7000 or (800) 579-0874

XII. Documentation of Disclosures for Requests for Accounting: Contractor shall document and make available to CDPH or (at the direction of CDPH) to an Individual such disclosures of CDPH PCI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of personal information as required by applicable state or federal law.

XIII. Requests for CDPH PCI by Third Parties: The Contractor and its employees, agents, or subcontractors shall promptly transmit to the CDPH Program Contract Manager all requests for disclosure of any CDPH PCI emanating from third parties to the agreement between Contractor and CDPH (and not emanating from an Individual for an accounting of disclosures of personal information pursuant to applicable state or federal law), unless prohibited from doing so by applicable state or federal law.

XIV. Audits, Inspection and Enforcement: From time to time, CDPH may inspect the facilities, systems, books and records of Contractor to monitor compliance with this Exhibit. Contractor shall promptly remedy any violation of any provision of this Exhibit and shall certify the same to the CDPH Program Contract Manager in writing.

XV. Return or Destruction of CDPH PCI on Expiration or Termination: On expiration or termination of the agreement between Contractor and CDPH for any reason, Contractor shall return or destroy the CDPH PCI. If return or destruction is not feasible, Contractor shall explain to CDPH why, in writing, to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Chief Information Security Officer, using the contact information listed in Section XI(c), above.

A. Retention Required by Law: If required by state or federal law, Contractor may retain, after expiration or termination, CDPH PCI for the time specified as necessary to comply with the law.

B. Obligations Continue Until Return or Destruction: Contractor's obligations under this Exhibit shall continue until Contractor returns or destroys the CDPH PCI or returns the CDPH PCI to CDPH; provided however, that on expiration or termination of the agreement between Contractor and CDPH, Contractor shall not further use or disclose the CDPH PCI except as Required by state or federal law.

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C. Notification of Election to Destroy CDPH PCI: If Contractor elects to destroy the CDPH PCI, Contractor shall certify in writing, to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Chief Information Security Officer, using the contact information listed in Section XI(c), above, that the CDPH PCI has been destroyed.

XVI. Amendment: The parties acknowledge that Federal and State laws relating to information security and privacy are rapidly evolving and that amendment of this Exhibit may be required to provide for procedures to ensure compliance with such laws. The parties specifically agree to take such action as is necessary to implement new standards and requirements imposed by regulations and other applicable laws relating to the security or privacy of CDPH PCI. The parties agree to promptly enter into negotiations concerning an amendment to this Exhibit consistent with new standards and requirements imposed by applicable laws and regulations.

XVII. Assistance in Litigation or Administrative Proceedings: Contractor shall make itself and any subcontractors, employees or agents assisting Contractor in the performance of its obligations under the agreement between Contractor and CDPH, available to CDPH at no cost to CDPH to testify as witnesses, in the event of litigation or administrative proceedings being commenced against CDPH, its director, officers or employees based upon claimed violation of laws relating to security and privacy, which involves inactions or actions by the Contractor, except where Contractor or its subcontractor, employee or agent is a named adverse party.

XVIII. No Third-Party Beneficiaries: Nothing express or implied in the terms and conditions of this Exhibit is intended to confer, nor shall anything herein confer, upon any person other than CDPH or Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

XIX. Interpretation: The terms and conditions in this Exhibit shall be interpreted as broadly as necessary to implement and comply with regulations and applicable State laws. The parties agree that any ambiguity in the terms and conditions of this Exhibit shall be resolved in favor of a meaning that complies and is consistent with Federal and State laws and regulations.

XX. Survival: If Contractor does not return or destroy the CDPH PCI upon the expiration or termination of the Agreement, the respective rights and obligations of Contractor under Sections VI, VII and XI of this Exhibit shall survive the termination or expiration of the agreement between Contractor and CDPH.

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Attachment 1
Contractor Data Security Standards

1. General Security Controls

A. ***Confidentiality Statement.*** All persons that will be working with CDPH PCI must sign a confidentiality statement. The statement must include at a minimum, General Use, Security and Privacy safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to CDPH PCI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for CDPH inspection for a period of three (3) years following contract termination.

B. ***Background check.*** Before a member of the Contractor's workforce may access CDPH PCI, Contractor must conduct a thorough background check of that worker and evaluate the results to assure that there is no indication that the worker may present a risk for theft of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.

C. ***Workstation/Laptop encryption.*** All workstations and laptops that process and/or store CDPH PCI must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher. The encryption solution must be full disk unless approved by the CDPH Information Security Office.

D. ***Server Security.*** Servers containing unencrypted CDPH PCI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.

E. ***Minimum Necessary.*** Only the minimum necessary amount of CDPH PCI required to perform necessary business functions may be copied, downloaded, or exported.

F. ***Removable media devices.*** All electronic files that contain CDPH PCI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher

G. ***Antivirus software.*** All workstations, laptops and other systems that process and/or store CDPH PCI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.

H. ***Patch Management.*** All workstations, laptops and other systems that process and/or store CDPH PCI must have security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.

I. ***User IDs and Password Controls.*** All users must be issued a unique user name for accessing CDPH PCI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password. Passwords are not to be shared. Must be at least eight characters. Must be a non-dictionary word. Must not be stored in

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readable format on the computer. Must be changed every 60 days. Must be changed if revealed or compromised. Must be composed of characters from at least three of the following four groups from the standard keyboard:

- Upper case letters (A-Z)
- Lower case letters (a-z)
- Arabic numerals (0-9)
- Non-alphanumeric characters (punctuation symbols)

J. ***Data Sanitization.*** All CDPH PCI must be sanitized using NIST Special Publication 800-88 standard methods for data sanitization when the CDPH PSCI is no longer needed.

2. System Security Controls

A. ***System Timeout.*** The system must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.

B. ***Warning Banners.*** All systems containing CDPH PCI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only. User must be directed to log off the system if they do not agree with these requirements.

C. ***System Logging*****.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for CDPH PCI, or which alters CDPH PCI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If CDPH PCI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.

D. ***Access Controls.*** The system must use role based access controls for all user authentications, enforcing the principle of least privilege.

E. ***Transmission encryption.*** All data transmissions of CDPH PCI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher. Encryption can be end to end at the network level, or the data files containing CDPH PCI can be encrypted. This requirement pertains to any type of CDPH PCI in motion such as website access, file transfer, and E-Mail.

F. ***Intrusion Detection***. All systems involved in accessing, holding, transporting, and protecting CDPH PCI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

3. Audit Controls

A. ***System Security Review.*** All systems processing and/or storing CDPH PCI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews shall include vulnerability scanning tools.

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B. ***Log Reviews.*** All systems processing and/or storing CDPH PCI must have a routine procedure in place to review system logs for unauthorized access.

C. ***Change Control.*** All systems processing and/or storing CDPH PCI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

4. Business Continuity / Disaster Recovery Controls

A. ***Disaster Recovery.*** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic CDPH PCI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this agreement for more than 24 hours.

B. ***Data Backup Plan.*** Contractor must have established documented procedures to backup CDPH PCI to maintain retrievable exact copies of CDPH PCI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and the amount of time to restore CDPH PCI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of CDPH data.

5. Paper Document Controls

A. ***Supervision of Data.*** CDPH PCI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. CDPH PCI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

B. ***Escorting Visitors.*** Visitors to areas where CDPH PCI is contained shall be escorted and CDPH PHI shall be kept out of sight while visitors are in the area.

C. ***Confidential Destruction.*** CDPH PCI must be disposed of through confidential means, using NIST Special Publication 800-88 standard methods for data sanitization when the CDPH PSCI is no longer needed.

D. ***Removal of Data.*** CDPH PCI must not be removed from the premises of the Contractor except with express written permission of CDPH.

E. ***Faxing.*** Faxes containing CDPH PCI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending.

F. ***Mailing.*** CDPH PCI shall only be mailed using secure methods. Large volume mailings of CDPH PHI shall be by a secure, bonded courier with signature required on receipt. Disks and other transportable media sent through the mail must be encrypted with a CDPH approved solution, such as a solution using a vendor product specified on the CSSI.