

REGISTRATION NUMBER

AGREEMENT NUMBER

05-45539

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

STATE AGENCY'S NAME

(Also referred to as CDHS, DHS, or the State)

California Department of Health Services

CONTRACTOR'S NAME

(Also referred to as Contractor)

County of Tulare Health and Human Services Agency

2. The term of this Agreement is: October 1, 2005 through September 30, 2008

3. The maximum amount of this Agreement is: \$ 1,090,531
One Million, Ninety Thousand Five Hundred Thirty One Dollars

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	10 pages
Exhibit B – Budget Detail and Payment Provisions	4 pages
Exhibit B, Attachment I – Budget (Year 1)	1 page
Exhibit B, Attachment II – Budget (Year 2)	1 page
Exhibit B, Attachment III – Budget (Year 3)	1 page
Exhibit C* – General Terms and Conditions	GTC 304
Exhibit D(F) – Special Terms and Conditions (Attached hereto as part of this agreement)	26 pages
Notwithstanding provision 6 which does not apply to this agreement.	
Exhibit E – Additional Provisions	2 pages
Exhibit F – Contractor's Release	1 page
Exhibit G – Travel Reimbursement Information	2 pages
Exhibit H – Contractor Equipment Purchased With DHS Funds	2 pages
Exhibit I – Inventory/Disposition of DHS-Funded Equipment	2 pages

See Exhibit E, Provision 1 for additional incorporated exhibits.

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

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

County of Tulare Health and Human Services Agency

BY (Authorized Signature)

DATE SIGNED (Do not type)



PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

5957 S. Mooney Blvd
Visalia, CA 93277

STATE OF CALIFORNIA

AGENCY NAME

California Department of Health Services

BY (Authorized Signature)

DATE SIGNED (Do not type)



PRINTED NAME AND TITLE OF PERSON SIGNING

Terri L. Anderson, Chief, Contracts and Purchasing Services Section

ADDRESS

1501 Capitol Avenue, Suite 71.2101, MS 1403, P.O. Box 997413
Sacramento, CA 95899-7413

California Department of
General Services Use Only

☐ Exempt per:

**Exhibit A
Scope of Work**

1. Service Overview

Contractor agrees to provide to the Department of Health Services (DHS) the services described herein:

Contractor will provide nutrition education outreach and conduct nutrition activities to lower income families described herein.

2. Service Location

The services shall be performed at applicable facilities in the County of Tulare.

3. Service Hours

The services shall be provided during normal contractor working hours and days.

4. Project Representative

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

Department of Health Services	Contractor
DHS Program Contract Manager: Shelly Martin Telephone: (916) 449-5394 Fax: (916) 449-5414 E-mail: Smartin2@dhs.ca.gov	Project Director: Peggy Redfern Telephone: (559) 685-2519 x242 Fax: (559) 685-2695 E-mail: Predfern@tularehhsa.org

B. Direct all inquiries to:

Department of Health Services	Contractor
Cancer Prevention and Nutrition Section Attention: Ralph Bonitz 1616 Capitol Avenue, Suite 74.516 MS 7204 P.O. Box 997413 Sacramento, CA 95899-7413 Telephone: (916) 449-5378 Fax: (916) 449-5414 E-mail: Rbonitz@dhs.ca.gov	County of Tulare Health and Human Services Agency Attn: Peggy Redfern 115 E. Tulare Avenue Tulare, CA 93274-4019 Telephone: (559) 685-2519 x242 Fax: (559) 685-2695 E-mail: Predfern@tularehhsa.org

C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

5. Allowable Informal Scope of Work (SOW) Changes

A. The Contractor or the State may propose informal changes or revisions to the activities, tasks, deliverables and/or performance time frames specified in the Scope of Work, provided such changes do not alter the overall goals and basic purpose of the agreement.

Exhibit A
Scope of Work

- B. Informal SOW changes may include the substitution of specified activities or tasks; the alteration or substitution of contract deliverables and modifications to anticipated completion/target dates.
- C. Informal SOW changes processed hereunder, shall not require a formal agreement amendment, provided the Contractor's annual budget does not increase or decrease as a result of the informal SOW change.
- D. Unless otherwise stipulated in this contract, all informal SOW changes and revisions are subject to prior written approval by the State.
- E. In implementing this provision, the State may provide a format for the Contractor's use to request informal SOW changes. If no format is provided by the State, the Contractor may devise its own format for this purpose.

6. Progress Reports

- A. The Contractor shall submit one original semi-annual progress report to the Contract Manager in the format prescribed by the State. The progress report shall describe progress made in completing contract deliverables, problems encountered, and solutions proposed.

- B. Progress report periods and due dates are:

	<u>Period</u>	<u>Due Date</u>
Interim	October 1, 2005 – March 31, 2006	04/16/2006
Final	April 1, 2006 – September 30, 2006	10/15/2006
Interim	October 1, 2006 – March 31, 2007	04/16/2007
Final	April 1, 2007 – September 30, 2007	10/15/2007
Interim	October 1, 2007 – March 31, 2008	04/16/2008
Final	April 1, 2008 – September 30, 2008	10/15/2008

- C. If the State does not receive complete and accurate progress reports by the required dates, further payments to the Contractor may be suspended until complete and accurate reports are received.

7. Contractor Requirements

The Contractor shall comply with the guidelines for the development of all education materials as outlined in the Local Incentive Award Program Guidelines Manual. These Guidelines have been incorporated into this agreement and made a part hereof by reference in Exhibit E, Additional Provisions, paragraph 1. In particular, the Contractor shall comply with the following requirements:

- A. Submit any news release related to this contract to the State for review prior to its release.
- B. The Contractor agrees to cooperate with the State in data collection related to evaluation of program effectiveness as requested in the manner, format, and timeline prescribed by the State. Data shall include, at a minimum, demographic descriptions of the population served,

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Scope of Work

audience reach, and items to measure program effectiveness. The data shall be submitted in the required form prescribed by the State.

- C. The Contractor agrees to cooperate with the State in the review and, when appropriate, the field testing of statewide evaluation instruments and newly developed educational materials.
 - D. Contractor shall ensure that the U.S. Department of Agriculture (USDA) Food Stamp Program is clearly identified as a sponsor or support organization on all materials and products funded by the contract (electronic, print, audiovisual, media, etc.). The Contractor agrees to abide by the guidelines set for usage of the *Network* and *5 a day* logos on any products generated by the contractor.
 - E. The Contractor agrees to cooperate with the State by participating in statewide meetings and site visits, as deemed necessary by the State.
8. See the following pages for a detailed description of the services to be performed.

Exhibit A
SCOPE OF WORK

County of Tulare Health & Human Services Agency
Contract #: 05-45539

GOAL:

Promote the likelihood that Food Stamp eligible families and youth in Tulare County will increase daily consumption of fruits and vegetables, daily physical activity, and participation in federally funded nutrition assistance programs.

OBJECTIVE 1:

Process: By September 30, 2008, the Tulare County Nutrition Collaborative will be maintained and expanded with a minimum of four LIA funded and four non LIA funded partners, and a strategic plan will be implemented to promote the overall mission of the collaborative.

SOCIAL ECOLOGICAL MODEL:

___ Individual ☒ Interpersonal: Social/Groups ☒ Institutional/Organizational ☒ Community ___ Policy/Environmental

TARGET AUDIENCE: RACE/ETHNICITIES:

Hispanic, Non-Hispanic/ Caucasian, American Indian or Alaskan Native, Black/African American, Asian, Native Hawaiian or Other Pacific Islander

AGE(S): INFANTS, CHILDREN, TEENS, ADULTS, AND SENIORS

185% FPL DATA SOURCE:

The 2002 US Census Bureau Small Area Income Estimates data indicates that 22.5% of Tulare County residents are at or below Federal Poverty Level (FPL) compared to 13.3% for the State of California, and 12.1% for the United States of America. In addition, 32.1% of Tulare County children are at or below FPL, compared to 19.2% for California, and 16.7% for the United States.

ACTIVITIES	WHO IS Performing Activity (See Legend)	EVALUATION	TIMEFRAME (Month/Year)
1. Increase connections, informational exchanges, and coordination with other local entities working toward improving nutrition education and promotion of physical activity and federal nutrition assistance programs to the Food Stamp eligible population.	Facilitator, SPHN, AA, ED, NEC, AM, HES	Lists of partners, TCNC meeting minutes, sign in sheets	10/01/05 – 09/30/08
2. Review and update the TCNC strategic plan.	Facilitator, SPHN, HES, AA, ED	TCNC meeting minutes, sign in sheets, strategic plan and mission statement	10/01/05 – 09/30/08
3. Attend regular TCNC meetings as well as special meetings and activities.	Facilitator, SPHN, HES, AA, ED, NEC	TCNC meeting minutes, sign in sheets	10/01/05 – 09/30/08
4. Continue Professional Service Agreement with part-time TCNC Collaborative Facilitator to facilitate, develop, and report on the collaborative activities of the LIA. The TCNC Collaborative Facilitator will also attend local and regional collaborative meetings, and represent the collaborative in other community-based meetings and projects that provide/improve nutrition education and physical activity/local federal nutrition assistance program promotion to the Food Stamp eligible population.	Facilitator, SPHN, SSA,	TC PSA Quarterly invoices, meeting agendas and sign in sheets	10/01/05 – 09/30/08

Legend: TCNC (Tulare County Nutrition Collaborative); WIC (Women, Infants, and Children Program); LIA (Local Incentive Awardee); NOG (Nutrition on the Go); PSA (personal services agreement); HHSA (Health & Human Services Agency); CPNS (Cancer Prevention & Nutrition Section); FFY (Federal Fiscal Year); NERI (Nutrition Education Reinforcement Item); USDA (United States Department of Agriculture); *Network* (California Nutrition Network for Healthy Active Families). Positions: SPHN (Supervising Public Health Nutritionist), RDs (Dietitian II and I), SSA (Staff Services Analyst III), AA (Administrative Aide), HPA (Health Program Assistant, NA (Nutrition Assistant II-B), OA (Office Assistant IV and Office Assistant II), ED (Executive Director), AM (Administrative Manager), NEC (Nutrition Education Coordinator), HES (Health Education Specialist), HEA (Health Education Assistant).

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SCOPE OF WORK

County of Tulare Health & Human Services Agency
Contract #: 05-45539

GOAL:

Promote the likelihood that Food Stamp eligible families and youth in Tulare County will increase daily consumption of fruits and vegetables, daily physical activity, and participation in federally funded nutrition assistance programs.

OBJECTIVE 2:

By September 30, 2008, complete and submit all required reports and forms on or before each deadline and participate in *Network* sponsored community events and trainings, and provide overall administrative coordination and support to the California Nutrition *Network* Local Incentive Award Program in the Tulare County Nutrition Collaborative.

SOCIAL ECOLOGICAL MODEL:

Individual ☐ Interpersonal: Social/Groups ☒ Institutional/Organizational ☐ Community ☐ Policy/Environmental

TARGET AUDIENCE: RACE/ETHNICITIES:

Hispanic, Non-Hispanic/ Caucasian, American Indian or Alaskan Native, Black/African American, Asian, Native Hawaiian or Other Pacific Islander

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ACTIVITIES	WHO IS Performing Activity (See Legend)	EVALUATION	TIMEFRAME (Month/Year)
1. Prepare Semi-Annual Activity Reports (SAAR) online based on input from partners.	Facilitator, SPHN, RDs, HES, AA, HEA, ED, NEC	Documents completed and submitted to CPNS	April, October each FFY
2. Prepare Semi Annual and Final Reports, including progress reports, progress report narratives, labeled attachments and Activity Tracking Forms with input from partners.	Facilitator, SPHN, HES, RDs, AA, HEA, ED, NEC, AM	Documents completed and submitted to CPNS	April, October each FFY
3. Prepare Local and State Share Project Summaries, which include low-income targeting data for each intervention site.	Facilitator, SPHN, HES, AA, ED, NEC, AM	Documents completed and submitted to CPNS	April, October each FFY
4. Conduct Impact Evaluation of Family Challenge interventions to increase fruit and vegetable consumption.	HES, HEA	Documents completed and submitted to CPNS	September 2008

Legend: TCNC (Tulare County Nutrition Collaborative); WIC (Women, Infants, and Children Program); LIA (Local Incentive Awardee); NOG (Nutrition on the Go); PSA (personal services agreement); HHSA (Health & Human Services Agency); CPNS (Cancer Prevention & Nutrition Section); FFY (Federal Fiscal Year); NERI (Nutrition Education Reinforcement Item); USDA (United States Department of Agriculture); *Network* (California Nutrition *Network* for Healthy Active Families). Positions: SPHN (Supervising Public Health Nutritionist), RDs (Dietitian II and I), SSA (Staff Services Analyst III), AA (Administrative Aide), HPA (Health Program Assistant, NA (Nutrition Assistant II-B), OA (Office Assistant IV and Office Assistant II), ED (Executive Director), AM (Administrative Manager), NEC (Nutrition Education Coordinator), HES (Health Education Specialist), HEA (Health Education Assistant).

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<p>5. Local Health Department Contractors: Implement <i>Communities of Excellence in Nutrition, Physical Activity and Obesity Prevention (CX³)</i> by conducting an assessment of community indicators and assets.</p> <p>a) Participate in any CPNS-sponsored CX³ training being offered for testing instruments and/or implementing CX³.</p> <p>b) Implement CX³, including organizing community groups to assist in the needs assessment process, select appropriate geographical area(s), collect needs assessment data using CX³ tools, and analyze local data and information.</p> <p>c) Provide ongoing information and feedback to CPNS.</p> <p>d) Based on CX³ assessment findings, prioritize identified problem areas, and develop a strategic SOW objective that is <i>Network</i> allowable.</p>	<p>Facilitator, SPHN, HES, ED</p>	<p>Data and report completed and submitted to CPNS</p>	<p>September 2008</p>
<p>6. Participate in community activities supporting statewide initiatives and provide nutrition education/physical activity promotion resources to local programs, including participation in and promotion of <i>National 5 a Day Week</i>.</p>	<p>ES, RDs or HPA or NAs, HEA, NEC</p>	<p>TCNC meeting minutes, sign in sheets, flyers and/or pictures</p>	<p>10/01/05 – 09/30/08</p>
<p>7. Attend <i>Network</i> regional collaborative meetings, providing input to planning <i>Network</i> regional activities and support <i>Network</i> regional. Actively participate in work groups.</p>	<p>Facilitator, HES, NEC</p>	<p>Copies of agendas, record of participation</p>	<p>10/01/05 – 09/30/08</p>
<p>8. Attend <i>5 a Day Power Play!</i> Regional meetings (if target audience is 9-11 year olds).</p>	<p>HES, NEC</p>	<p>Copies of agendas, record of participation</p>	<p>10/01/05 – 09/30/08</p>
<p>9. Attend <i>Network</i> sponsored trainings and conferences: annual <i>Network</i> Social Marketing Conference, regional SHAPE California meetings (if school district or working with schools), CCLHDN (if local health department), other <i>Network</i> sponsored regional trainings</p>	<p>Facilitator, SPHN, HES or AA or HEA, NEC</p>	<p>Copies of agendas, record of participation</p>	<p>10/01/05 – 09/30/08</p>
<p>10. Track local and state share personnel activities, expenses, and other costs, and submit invoices quarterly.</p>	<p>Facilitator, SPHN, AA, HES, ED, NEC</p>	<p><i>NETWORK</i> invoice and local share documentation reports</p>	<p>10/01/05-9/30/08</p>

Legend: TCNC (Tulare County Nutrition Collaborative); WIC (Women, Infants, and Children Program); LIA (Local Incentive Awardee); NOG (Nutrition on the Go); PSA (personal services agreement); HHSA (Health & Human Services Agency); CPNS (Cancer Prevention & Nutrition Section); FFY (Federal Fiscal Year); NERI (Nutrition Education Reinforcement Item); USDA (United States Department of Agriculture); *Network* (California Nutrition Network for Healthy Active Families). Positions: SPHN (Supervising Public Health Nutritionist), RDs (Dietitian II and I), SSA (Staff Services Analyst III), AA (Administrative Aide), HPA (Health Program Assistant, NA (Nutrition Assistant II-B), OA (Office Assistant IV and Office Assistant II), ED (Executive Director), AM (Administrative Manager), NEC (Nutrition Education Coordinator), HES (Health Education Specialist), HEA (Health Education Assistant).

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SCOPE OF WORK

County of Tulare Health & Human Services Agency
Contract #: 05-45539

GOAL:

Promote the likelihood that Food Stamp eligible families and youth in Tulare County will increase daily consumption of fruits and vegetables, daily physical activity, and participation in federally funded nutrition assistance programs.

OBJECTIVE 3:

Process: By September 30, 2008, promote healthy eating, physical activity, and local federal nutrition assistance programs to at least 30,000 Food Stamp eligible families and TCNC partners through events, trainings, and interventions in Tulare County.

SOCIAL ECOLOGICAL MODEL:

X Individual X Interpersonal: Social/Groups X Institutional/Organizational X Community Policy/Environmental

TARGET AUDIENCE: RACE/ETHNICITIES:

Hispanic, Non-Hispanic/ Caucasian, American Indian or Alaskan Native, Black/African American, Asian, Native Hawaiian or Other Pacific Islander

AGE(S): INFANTS, CHILDREN, TEENS, ADULTS, AND SENIORS

185% FPL DATA SOURCE:

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ACTIVITIES	WHO IS Performing Activity (See Legend)	EVALUATION	TIMEFRAME (Month/Year)
1. Research and purchase Nutrition Education Reinforcement Items that promote healthy eating, the importance of daily physical activity, and reinforce positive nutrition and physical activity behaviors. If <i>Network</i> NERIs are not available or appropriate to the program activity, then they will be purchased from non- <i>Network</i> providers. NERIs will be distributed during nutrition educational and physical activity/local federal nutrition assistance program promotional events, trainings, and interventions.	RD/NEC, HES, AM	List of items ordered/purchased	10/01/05 – 09/30/08
2. Compile program materials available through the <i>Network</i> , recognized third-party resources, as well as those that are locally developed that teach the benefits of healthy eating and physical activity, and promote local federal nutrition assistance programs. These materials will be used during nutrition educational and physical activity/local federal nutrition assistance program promotional events, trainings, and interventions. All newly developed/reprinted materials will be submitted to the <i>Network</i> Program Manager prior to distribution.	RD/NEC, HES, AM	List of materials compiled	10/01/05 – 09/30/08
3. Request endorsement by HHSA and/or Tulare County Board of Supervisors for relevant community events and interventions relating to healthy eating, and promotion of physical activity and local federal nutrition assistance programs, in Food Stamp eligible communities.	Facilitator, SPHN or HES, ED or NEC	Board of Supervisors Proclamation, acknowledgment, or presentation	10/01/05 – 09/30/08

Legend: TCNC (Tulare County Nutrition Collaborative); WIC (Women, Infants, and Children Program); LIA (Local Incentive Awardee); NOG (Nutrition on the Go); PSA (personal services agreement); HHSA (Health & Human Services Agency); CPNS (Cancer Prevention & Nutrition Section); FFY (Federal Fiscal Year); NERI (Nutrition Education Reinforcement Item); USDA (United States Department of Agriculture); *Network* (*California Nutrition Network for Healthy Active Families*). Positions: SPHN (Supervising Public Health Nutritionist), RDs (Dietitian II and I), SSA (Staff Services Analyst III), AA (Administrative Aide), HPA (Health Program Assistant, NA (Nutrition Assistant II-B), OA (Office Assistant IV and Office Assistant II), ED (Executive Director), AM (Administrative Manager), NEC (Nutrition Education Coordinator), HES (Health Education Specialist), HEA (Health Education Assistant).

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<p>4. Provide training presentations on nutrition education, physical activity promotion, and information on local federal nutrition assistance programs to new and continuing personnel and volunteers at partner program work sites at least 4 times a year. May include modeling healthy recipes and taste testing, and distribution of nutrition and physical activity/federal nutrition assistance program promotion materials. All newly developed/reprinted training materials will be reviewed by a Network Program Manager prior to distribution.</p>	<p>RDs or HES, ED, AM, or NEC</p>	<p>Copies of agendas, sign-in sheets, copy of presentations/curriculum, and samples of handouts</p>	<p>10/01/05 – 09/30/08</p>
<p>5. Provide nutrition education and physical activity promotion classes two times a year, to WIC participants on the USDA Daily Food Guide as well as the importance of being physically active every day. Classes will be over and above the Federal WIC requirement and enhance the regular class services currently provided. All newly developed/reprinted educational curriculums will be submitted to the Network Program Manager prior to distribution.</p>	<p>RDs, HPA, NA</p>	<p>List/samples of materials distributed, copy of classroom curriculum, event flyers, sign in sheets</p>	<p>10/01/05 – 09/30/08</p>
<p>6. Promote healthy eating, physical activity, and local federal nutrition assistance (e.g., WIC, Food Stamp Program, Child and Adult Care Food Program, and Emergency Food Assistance Program) programs in order to encourage healthy lifestyles by:</p> <ul style="list-style-type: none"> a. Using Network social marketing materials at partner program activities such as Family Challenge, WIC group nutrition education and physical activity classes, HeadStart, and Senior Programs that reach the Food Stamp eligible communities. b. Providing 240 Nutrition on the Go mobile events in rural communities annually, which provide access to nutrition education, physical activity/local federal nutrition assistance programs promotion, and healthy taste tests to Food Stamp eligible communities. c. Provide general nutrition education and physical activity promotion activities to students participating in the summer food program at eligible school sites. 	<p>RDs, HPA, NA, OA, or AA, HES and HEA, NEC</p>	<p>List/samples of recipes and materials distributed, event flyers, sign in sheets, samples of media coverage</p>	<p>10/01/05 – 09/30/08</p>

Legend: TCNC (Tulare County Nutrition Collaborative); WIC (Women, Infants, and Children Program); LIA (Local Incentive Awardee); NOG (Nutrition on the Go); PSA (personal services agreement); HHSA (Health & Human Services Agency); CPNS (Cancer Prevention & Nutrition Section); FFY (Federal Fiscal Year); NERI (Nutrition Education Reinforcement Item); USDA (United States Department of Agriculture); Network (California Nutrition Network for Healthy Active Families). Positions: SPHN (Supervising Public Health Nutritionist), RDs (Dietitian II and I), SSA (Staff Services Analyst III), AA (Administrative Aide), HPA (Health Program Assistant, NA (Nutrition Assistant II-B), OA (Office Assistant IV and Office Assistant II), ED (Executive Director), AM (Administrative Manager), NEC (Nutrition Education Coordinator), HES (Health Education Specialist), HEA (Health Education Assistant).

Exhibit A
SCOPE OF WORK

County of Tulare Health & Human Services Agency
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GOAL:

Promote the likelihood that Food Stamp eligible families and youth in Tulare County will increase the daily consumption of fruits and vegetables, daily physical activity, and participation in federally funded nutrition assistance programs.

OBJECTIVE 4:

Process: By September 30, 2008, at least 2,250 participants, who are Food Stamp eligible in Tulare County, will complete a 10 week Family Challenge program, which provides classes on nutrition education and physical activity promotion.

SOCIAL ECOLOGICAL MODEL:

X Individual X Interpersonal: Social/Groups ___ Institutional/Organizational ___ Community ___ Policy/Environmental

TARGET AUDIENCE: RACE/ETHNICITIES:

Hispanic, Non-Hispanic/ Caucasian, American Indian or Alaskan Native, Black/African American, Asian, Native Hawaiian or Other Pacific Islander

AGE(S): INFANTS, CHILDREN, TEENS, ADULTS, AND SENIORS

185% FPL DATA SOURCE:

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ACTIVITIES	WHO IS Performing Activity (See Legend)	EVALUATION	TIMEFRAME (Month/Year)
1. Develop an annual schedule for 9 10-week sessions of Family Challenge, which is above and beyond those provided in State Match Share. Classes may be held in the Food Stamp eligible communities of, but not limited to Farmersville, Lindsay, Earlimart, Pixley, Dinuba, Cutler/Orosi, and Tipton.	HES	Class schedule	10/30/05 10/30/06 10/30/07
2. Organize/update Family Challenge curriculum/toolkit annually if necessary. Curriculum/toolkit will educate participants on the importance of nutrition and promote daily physical activity. All newly developed/reprinted curriculum and toolkit will be submitted to the <i>Network</i> Program Manager for review prior to distribution.	HES	Samples of curriculum and handouts	03/31/06 03/31/07 03/31/08
3. Recruit participants for the Family Challenge classes, by promoting the <i>Family Challenge</i> Toolkits to other partner programs who serve the Food Stamp eligible population and individuals who are Food Stamp eligible.	HES, HEA	Samples of promotional efforts	10/01/05 – 09/30/08
4. Conduct 9 10-week sessions of Family Challenge classes annually to approximately 750 participants utilizing the <i>Family Challenge</i> Tool Kits to Food Stamp eligible audiences.	HEA	Event flyers, sign in sheets	10/01/05 – 09/30/08

Legend: TCNC (Tulare County Nutrition Collaborative); WIC (Women, Infants, and Children Program); LIA (Local Incentive Awardee); NOG (Nutrition on the Go); PSA (personal services agreement); HHSA (Health & Human Services Agency); CPNS (Cancer Prevention & Nutrition Section); FFY (Federal Fiscal Year); NERI (Nutrition Education Reinforcement Item); USDA (United States Department of Agriculture); *Network* (California Nutrition Network for Healthy Active Families). Positions: SPHN (Supervising Public Health Nutritionist), RDs (Dietitian II and I), SSA (Staff Services Analyst III), AA (Administrative Aide), HPA (Health Program Assistant, NA (Nutrition Assistant II-B), OA (Office Assistant IV and Office Assistant II), ED (Executive Director), AM (Administrative Manager), NEC (Nutrition Education Coordinator), HES (Health Education Specialist), HEA (Health Education Assistant).

Exhibit A
SCOPE OF WORK

County of Tulare Health & Human Services Agency
Contract #: 05-45539

GOAL:

Promote the likelihood that Food Stamp eligible families and youth in Tulare County will increase the daily consumption of fruits and vegetables, daily physical activity, and participation in federally funded nutrition assistance programs.

OBJECTIVE 5:

Impact: By September 30, 2008, at least 200 Family Challenge participants, who are Food Stamp eligible in Tulare County, will increase their self-efficacy in the consumption of fruits and vegetables and physical activity.

SOCIAL ECOLOGICAL MODEL:

X Individual X Interpersonal: Social/Groups Institutional/Organizational Community Policy/Environmental

TARGET AUDIENCE: RACE/ETHNICITIES:

Hispanic, Non-Hispanic/ Caucasian, American Indian or Alaskan Native, Black/African American, Asian, Native Hawaiian or Other Pacific Islander

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ACTIVITIES	WHO IS Performing Activity (See Legend)	EVALUATION	TIMEFRAME (Month/Year)
1. Review annually and if necessary revise pre- and post-survey tool that will measure self-efficacy in consuming fruits and vegetables. All newly developed/reprinted survey tools will be submitted to the Network Program Manager for review prior to distribution.	HES	Sample of survey tool selected/ developed	10/01/05-09/30/06 10/01/06-09/30/07 10/01/07-09/30/08
2. Implement the pre- and post-surveys to participants from 9 Family Challenge 10-week programs, each year, to measure their self-efficacy in consuming fruits and vegetables before and after the program. There will be 10 interventions with the same participants during each of the 10-week programs. Participants will be Food Stamp eligible.	HES, HEA	Class schedule	10/01/05-09/30/06 10/01/06-09/30/07 10/01/07-09/30/08
3. Compare pre- and post-surveys of Family Challenge participants, to measure the percentage of change in self-efficacy of fruit and vegetable consumption, and then summarize results. Utilize the evaluation protocol developed by California State University, Fresno Health Sciences Department to evaluate raw data and prepare statistical analysis of program efficacy.	HES	Summary of survey results	06/01/06- 9/30/06 06/01/07 - 09/30/07 06/01/08-09/30/08
4. Complete Impact Evaluation Report and submit to the Network. Results may also be shared with TCNC and other community partners and stakeholders.	HES	Data and report completed and submitted to CPNS	September 30, 2006, 2007, 2008

Legend: TCNC (Tulare County Nutrition Collaborative); WIC (Women, Infants, and Children Program); LJA (Local Incentive Awardee); NOG (Nutrition on the Go); PSA (personal services agreement); HHSA (Health & Human Services Agency); CPNS (Cancer Prevention & Nutrition Section); FFY (Federal Fiscal Year); NERI (Nutrition Education Reinforcement Item); USDA (United States Department of Agriculture); Network (California Nutrition Network for Healthy Active Families). Positions: SPHN (Supervising Public Health Nutritionist), RDs (Dietitian II and I), SSA (Staff Services Analyst III), AA (Administrative Aide), HPA (Health Program Assistant, NA (Nutrition Assistant II-B), OA (Office Assistant IV and Office Assistant II), ED (Executive Director), AM (Administrative Manager), NEC (Nutrition Education Coordinator), HES (Health Education Specialist), HEA (Health Education Assistant).

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 State agrees to compensate the Contractor for actual expenditures incurred in accordance with the budget(s) attached hereto.
- B. Invoices shall include the Agreement Number and shall be submitted not more frequently than quarterly in arrears to:

Shelly Martin
Department of Health Services
Cancer Prevention and Nutrition Section
1616 Capitol Avenue, Suite 74.516
MS 7204
P.O. Box 997413
Sacramento, CA 95899-7413

C. Invoices shall:

- 1. Be prepared on company letterhead. If invoices are not on produced letterhead invoices must be signed by an authorized official, employee or agent certifying that the expenditures claimed represent actual expenses for the service performed under this contract.
 - 2. Bear the Contractor's name as shown on the agreement.
 - 3. Identify the billing and/or performance period covered by the invoice.
 - 4. Itemize costs for the billing period in the same or greater level of detail as indicated in this agreement. Subject to the terms of this agreement, reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable in this agreement and approved by DHS.
- D. Quarterly invoices shall be submitted for payment within 30 days following the end of each calendar quarter in which the work was performed and costs incurred in the performance of the agreement, unless the contract has reached the expiration or termination date (see paragraph 5, Timely Submission of Final Invoice) or a later or alternate deadline is agreed to in writing by the program contract manager.
 - E. The State may, at its discretion, choose not to honor any delinquent invoice if the Contractor fails to obtain prior written State approval of an alternate invoice submission deadline.

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 Contractor or to furnish any other considerations under this Agreement and 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 Contractor to reflect the reduced amount.

Exhibit B
Budget Detail and Payment Provisions

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 amount payable under this agreement shall not exceed:
 - 1) \$368,580 for the budget period of 10/01/05 through 09/30/06.
 - 2) \$364,968 for the budget period of 10/01/06 through 09/30/07.
 - 3) \$356,983 for the budget period of 10/01/07 through 09/30/08.
- B. 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.
- C. The Contractor must maintain records reflecting actual expenditures for each state fiscal year covered by the term of this agreement.

5. Timely Submission of Final Invoice

- A. A final undisputed invoice shall be submitted for payment no more than ninety (90) calendar days following the expiration or termination date of this agreement, unless a later or alternate deadline is agreed to in writing by the program contract manager. Said invoice should be clearly marked "Final Invoice", thus indicating that all payment obligations of the State under this agreement have ceased and that no further payments are due or outstanding.
- B. The State may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written State approval of an alternate final invoice submission deadline. Written State approval shall be sought from the program contract manager prior to the expiration or termination date of this agreement.
- C. The Contractor is hereby advised of its obligation to submit, with the final invoice, a "**Contractor's Release (Exhibit F)**" acknowledging submission of the final invoice to the State and certifying the approximate percentage amount, if any, of recycled products used in performance of this agreement.

6. Allowable Line Item Shifts

- A. Cumulative line item shifts of up to \$25,000 or 10% of the annual agreement total may be made, whichever is greater, up to a cumulative annual maximum of \$50,000, provided the annual agreement total does not increase or decrease.
- B. Line item shifts meeting these criteria shall not require a formal agreement amendment.
- C. Contractor shall adhere to State requirements regarding the process to follow in requesting approval to make line item shifts.
- D. Line item shifts may be proposed/requested by either the State or the Contractor.

Exhibit B
Budget Detail and Payment Provisions

7. Contractor's Local Share Requirements

- A. The contractor shall contribute qualifying network nutrition education contributions from its own Local Share resources to the extent of the Contractor's Local Share as detailed in the Local Share Budgets signed and approved as final by the contractor. These Local Share Budgets have been incorporated into this agreement and made a part hereof by reference in Exhibit E, Additional Provisions, paragraph 1.A. The Contractor's Local Share must be from a public, non-Federal source.* The Contractor's Local Share cannot be used to match another Federal program. In addition, the qualifying nutrition education intervention must target Food Stamp recipients and/or other similar households living at not higher than 185 percent of the Federal Poverty Level or for school districts and other education agencies, interventions must target low-resource schools, defined as those with 50% of students or more eligible for free or reduced-price school meals.

*Exception: Indian Tribal Organizations can use federal grant funds that are designated as an allowable source of Local Share dollars directed toward nutrition education.

- B. The Contractor is responsible for maintaining verifiable records of all Local Share contributions. The Contractor shall submit quarterly, Local Share reports documenting Local Share contributions. The Local Share documentation report shall be submitted in a form and format prescribed by the State.
- C. The Contractor shall return any funds necessary to repay the State for any Federal audit exceptions resulting in the disallowance of contract funds in which the Contractor has not complied with the requirements of this agreement and applicable Federal regulations.
- D. The Contractor agrees to match each State dollar with two dollars of Local Share contributions as detailed in the Local Share Budgets. The Local Share Budgets represent the minimum support the contractor agrees to provide in exchange for the payments received. Any changes to the Contractor's Local Share Budgets as referenced in Exhibit E, Additional Provisions, paragraph 1.A. may be proposed by the Contractor. All changes are subject to prior written approval by the State. Changes to Local Share Budgets do not require a formal amendment.

8. Expense Allowability / Fiscal Documentation

- A. Invoices, received from a Contractor and accepted and/or submitted for payment by the State, shall not be deemed evidence of allowable agreement costs.
- B. Contractor shall maintain for review and audit and supply to DHS upon request, adequate documentation of all expenses claimed pursuant to this agreement to permit a determination of expense allowability.
- C. If the allowability or appropriateness of an expense cannot be determined by the State because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles or practices, all questionable costs may be disallowed and payment may be withheld by the State. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.

Exhibit B
Budget Detail and Payment Provisions

- D. If travel is a reimbursable expense, receipts must be maintained to support the claimed expenditures. For more information on allowable travel and per diem expenses and required documentation, see Exhibit G entitled, "Travel Reimbursement Information".
- E. Costs and/or expenses deemed unallowable are subject to recovery by DHS. See provision 9 in this exhibit entitled, "Recovery of Overpayments" for more information.

9. Recovery of Overpayments

- A. Contractor agrees that claims based upon a contractual agreement or an audit finding and/or an auditing finding that is appealed and upheld, will be recovered by the State and/or Federal Government by one of the following options:
 - 1) Contractor's remittance to the State of the full amount of the audit exception within 30 days following the State's request for repayment;
 - 2) A repayment schedule which is agreeable to both the State and the Contractor.
- B. The State reserves the right to select which option will be employed and the Contractor will be notified by the State in writing of the claim procedure to be utilized.
- C. Interest on the unpaid balance of the audit finding or debt will accrue at a rate equal to the monthly average or the rate received on investments in the Pooled Money Investment Fund commencing on the date that an audit or examination finding is mailed to the Contractor, beginning 30 days after Contractor's receipt of the State's demand for repayment.
- D. If the Contractor has filed a valid 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 appeal, Contractor shall repay, to the State, the over-claimed or disallowed expenses, plus accrued interest. Interest accrues from the Contractor's first receipt of State's notice requesting reimbursement of questioned audit costs or disallowed expenses.

10. Revenue

- A. This provision supersedes and replaces provision 6 entitled, "Income Restrictions" appearing in Special Terms and Conditions Exhibit D(F).
- B. If the Contractor realizes a profit from the sale of nutrition education materials (videos, literature, etc. paid with contract dollars), it must report the amount to the State as Contractor income on the SF-269 form. The Contractor shall make the SF-269 form available to the State on request. The Contractor shall place any income, fees, or reimbursements accruing to or received by the Contractor for services rendered under this agreement into a separate identifiable account. Revenues generated by the Contractor as a result of this State agreement must be utilized to meet identified, agreed upon, program-related needs of the Contractor, or must be returned to the State. Any revenues accruing to the Contractor, based on services supported in whole or in part by the State pursuant to this agreement, shall be used to defray costs incurred by this project to measurably expand the program or improve the quality of services detailed in this agreement, and must be approved in writing by the State. Adequate documentation of the use of these funds shall be maintained.

Exhibit B, Attachment I
BUDGET
(Year 1)
(10/01/05 through 09/30/06)

Personnel	\$ 246,327
Fringe Benefits*	\$ 75,059
Operating Expenses	\$ 1,026
Equipment	\$ 1,780
Travel	\$ 14,236
Subcontracts	\$ 6,500
Other Costs	\$ 0
Indirect Costs**	\$ 23,651
Total	\$ <u>368,580</u>

* Fringe Benefits @ 30- 32% varies per position

**Indirect Costs—10% of \$161,242 & 15% of \$50,247

Exhibit B, Attachment II
BUDGET
(Year 2)
(10/01/06 through 09/30/07)

Personnel	\$ 244,638
Fringe Benefits*	\$ 74,440
Operating Expenses	\$ 2,109
Equipment	\$ 0
Travel	\$ 13,539
Subcontracts	\$ 6,500
Other Costs	\$ 0
Indirect Costs**	\$ 23,741
Total	\$ <u>364,968</u>

* Fringe Benefits @ 30- 32% varies per position

**Indirect Costs—10% of \$165,267 & 15% of \$54,988

**Exhibit B, Attachment III
BUDGET
(Year 3)
(10/01/07 through 09/30/08)**

Personnel	\$ 234,641
Fringe Benefits*	\$ 71,126
Operating Expenses	\$ 600
Equipment	\$ 0
Travel	\$ 13,150
Subcontracts	\$ 6,500
Other Costs	\$ 8,870
Indirect Costs**	\$ 22,096
Total	\$ <u>356,983</u>

* Fringe Benefits @ 30- 32% varies per position

**Indirect Costs—10% of \$148,608 & 15% of \$48,242

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. 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, 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. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (Pub. Contract Code §§ 10233, 10308.5, 10354)

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 304 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

*18. UNION ACTIVITIES: For all contracts, except fixed price contracts of \$50,000 or less, the Contractor acknowledges that:

By signing this agreement Contractor hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this agreement and agrees to the following:

- a) Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
- b) No state funds received under this agreement will be used to assist, promote or deter union organizing.
- c) Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.
- d) If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.

***This provision is stayed pending the outcome of the litigation entitled, *Chamber of Commerce v. Lockyer* (April 2004) 364 F3d 1154.**

Special Terms and Conditions*(For federally funded service contracts and grant awards)*

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 "grant", "Grantee" and "Subgrantee" respectively.

Index of Special Terms and Conditions

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1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements.)

- 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 DHS, 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 DHS 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 DHS, the Contractor may request in writing to DHS, 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

(Applicable if travel and/or per diem expenses are reimbursed with contract funds.)

Reimbursement for travel and per diem expenses from DHS under this agreement shall, unless otherwise specified in this agreement, be at the rates currently in effect, as established by the California Department of Personnel Administration (DPA), for nonrepresented state employees as stipulated in DHS' Travel Reimbursement Information Exhibit. If the DPA 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 DPA rates may be approved by DHS 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 DHS. 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, miscellaneous property, commodities and/or supplies are furnished by DHS or expenses for said items are reimbursed with state or federal funds.)

a. Equipment definitions

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

- (1) **Major equipment:** 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 DHS or the cost is reimbursed through this agreement. Software and videos are examples of intangible items that meet this definition.
- (2) **Minor equipment:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more that is listed on the DHS Asset Management Unit's Minor Equipment List and is either furnished by DHS or the cost is reimbursed through this agreement. Contractors may obtain a copy of the Minor Equipment List by making a request through the DHS program contract manager.
- (3) **Miscellaneous property:** A specific tangible item with a life expectancy of one (1) year or more that is either furnished by DHS or the cost is reimbursed through this agreement. Examples include, but are not limited to: furniture (excluding modular furniture), cabinets, typewriters, desktop calculators, portable dictators, non-digital cameras, etc.

- 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 DHS program contract manager, to have all remaining equipment purchased through DHS' Purchasing Unit. The cost of equipment purchased by or through DHS shall be deducted from the funds available in this agreement. Contractor shall submit to the DHS 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 DHS. The equipment will be delivered to the Contractor's address, as stated on the face of the agreement, unless the Contractor notifies the DHS 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 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 DHS, prior written authorization from the appropriate DHS program contract manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more 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 DHS, 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 DHS (e.g., when DHS has a need to monitor certain purchases, etc.), DHS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHS reserves the right to either

deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHS 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. DHS 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 miscellaneous property is furnished by DHS and/or when said items are purchased or reimbursed with state or federal funds.)

- a. Wherever the term equipment and/or miscellaneous property is used in Provision 4, the definitions in Provision 3, Paragraph a shall apply.

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

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

Upon receipt of equipment and/or miscellaneous property, the Contractor shall report the receipt to the DHS program contract manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by DHS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHS Funds) does not accompany this agreement, Contractor shall request a copy from the DHS 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 miscellaneous property to the DHS program contract manager using a form or format designated by DHS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHS-Funded Equipment) does not accompany this agreement, Contractor shall request a copy from the DHS program contract manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or miscellaneous property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
- (b) Submit the inventory report to DHS according to the instructions appearing on the inventory form or issued by the DHS program contract manager.
- (c) Contact the DHS program contract manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or miscellaneous property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by DHS' Asset Management Unit.

- b. Title to state equipment and/or miscellaneous property shall not be affected by its incorporation or attachment to any property not owned by the State.
- c. Unless otherwise stipulated, DHS 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 miscellaneous 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 miscellaneous property.
 - (1) In administering this provision, DHS may require the Contractor and/or Subcontractor to repair or replace, to DHS' satisfaction, any damaged, lost or stolen state equipment and/or miscellaneous 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 DHS program contract manager.
- e. Unless otherwise stipulated by the program funding this agreement, equipment and/or miscellaneous property purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, shall only be used for performance of this agreement or another DHS 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 miscellaneous property to the DHS program contract manager and shall, at that time, query DHS as to the requirements, including the manner and method, of returning state equipment and/or miscellaneous property to DHS. Final disposition of equipment and/or miscellaneous property shall be at DHS expense and according to DHS instructions. Equipment and/or miscellaneous property disposition instructions shall be issued by DHS immediately after receipt of the final inventory report. At the termination or conclusion of this agreement, DHS may at its discretion, authorize the continued use of state equipment and/or miscellaneous property for performance of work under a different DHS agreement.
- g. **Motor Vehicles**

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

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, within thirty (30) calendar days prior to the termination or end of this agreement, the Contractor and/or Subcontractor shall return such vehicles to DHS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHS.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHS 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 and/or a subcontractor may only use said vehicles for performance and under the terms of this agreement.
- (3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHS 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 DHS under the terms of this agreement, the Contractor and/or Subcontractor, 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 period of contract extension during which any vehicle remains in the Contractor's and/or Subcontractor'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 DHS under the terms of this agreement, to the Contractor and/or Subcontractor.
- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHS program contract manager.
- (c) The Contractor and/or Subcontractor agree 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 DHS.
- (d) The Contractor and/or Subcontractor agree 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 and/or Subcontractor, 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 Health Services).
 - [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 the State of California Department of Health Services, 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 the agreement number for which the insurance was obtained.
- (f) The Contractor and/or Subcontractor 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 DHS, 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 and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHS 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 costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, 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 particulars 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 Administrative Manual Section 1233 subsection 3. View this publication at the following Internet address: <http://sam.dgs.ca.gov>.
- b. DHS 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 DHS 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 DHS.
- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHS. DHS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHS.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this agreement and shall, upon request by DHS, make said copies available for approval, inspection, or audit.
- e. Sole responsibility rests with the Contractor to ensure that subcontractors, used in performance of this agreement, are paid in a timely manner. The timeliness of said payments may be affected by the timeliness of payments issued by DHS to the Contractor.
- 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 DHS, to permit DHS 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 DHS, 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, and 32.

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 DHS, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by DHS 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 DHS, 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.

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. DHS 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 DHS has agreed in a signed writing to accept a license, DHS 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 DHS 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 DHS' Intellectual Property in existence prior to the effective date of this agreement. Except as otherwise set forth herein, Contractor shall not use any of DHS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHS. **Except as otherwise set forth herein, neither the Contractor nor DHS 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 DHS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHS in the third-party's license agreement.
- (4) Contractor agrees to cooperate with DHS in establishing or maintaining DHS' exclusive rights in the Intellectual Property, and in assuring DHS' 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 DHS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHS and which result directly or indirectly from this agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with DHS 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 DHS' 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 DHS 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 DHS, 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 DHS 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 Section 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 DHS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHS 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 DHS and which result directly or indirectly from this agreement, shall include DHS' notice of copyright, which shall read in 3mm or larger typeface: "© 2001, State of California, Department of Health Services. This material may not be reproduced or disseminated without prior written permission from the Department of Health Services." 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 DHS 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 DHS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHS 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 DHS' prior written approval; and (ii) granting to or obtaining for DHS, 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 DHS 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 DHS.

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 DHS 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 DHS 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) DHS 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 DHS 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 DHS' 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 DHS 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. DHS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHS.
- (2) Should any Intellectual Property licensed by the Contractor to DHS under this agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHS' right to use the licensed Intellectual Property in accordance with this agreement at no expense to DHS. DHS 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 DHS 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, DHS 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 DHS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHS would suffer irreparable harm in the event of such breach and agrees DHS 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, DHS 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 DHS approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this contract 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 DHS 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 DHS without prior written authorization from the DHS program contract manager.
- 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.

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 contract 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 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 the Contractor believes there is a dispute arising from DHS' action in the administration of an agreement. If the Contractor believes there is a dispute or grievance between the Contractor and DHS, both parties shall follow the procedure outlined below.
 - (1) The Contractor should first discuss the problem informally with the DHS program contract manager. If the problem cannot be resolved at this stage, 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 make a determination on the problem within ten (10) working days after receipt of the written communication from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. Should the Contractor disagree with the Branch Chief's decision, the Contractor may appeal to the second level.
 - (2) The Contractor must prepare a letter indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the letter a copy of the Contractor's original statement of dispute with any supporting documents and a copy of the Branch Chief's response. This letter shall be sent 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 funding this agreement 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 funding this agreement or his/her designee shall be returned to the Contractor within twenty (20) working days of receipt of the Contractor's letter.
- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division funding this agreement 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, Subchapter 2.5, commencing with Section 251, 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 by DHS, dispute, grievance and/or appeal correspondence shall be directed to the DHS program contract manager.

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 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, grants, or subventions to other governmental agencies or units of government nor contracts 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) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives \$25,000 or more from any State agency under a direct service contract; 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) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract, 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) If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by the Federal Office of Management and Budget [OMB] Circular A-133) and expends \$300,000 or more in Federal awards, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in OMB Circular A-133 entitled "Audits of States, Local Governments, and Non-Profit Organizations". *The \$300,000 threshold identified in this paragraph will increase to \$500,000 for federal fiscal years ending after December 31, 2003.* 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 DHS a report of an audit other than an OMB A-133 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$300,000 or more in federal funds for the year covered by the audit report. *The \$300,000 threshold identified in this paragraph will increase to \$500,000 for federal fiscal years ending after December 31, 2003.*

- d. Two copies of the audit report shall be delivered to the DHS 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 DHS program contract manager shall forward the audit report to DHS' Audits and Investigations Unit.
- 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 DHS 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, DHS shall act upon the proposal within 60 days after receipt of the written proposal. DHS 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, DHS 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 DHS program funding this contract.
- 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 DHS 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, DHS 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 contract, DHS 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 DHS 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.)

DHS 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 DHS. Negative performance evaluations may be considered by DHS 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

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 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, DHS 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 fringe benefits shall be at actual cost.
- 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 Provision f (3)(a) for an example.
 - (2) For multiple year contracts, 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 contract 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 contract period of one year. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of the agreement, the Contractor during a one-year agreement term may only claim up to three weeks of vacation and twelve days of sick leave 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 DHS, 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 contracts 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, 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

**STATE OF CALIFORNIA
DEPARTMENT OF HEALTH SERVICES**

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:

Department of Health Services
(Name of the DHS program providing the funds)
P.O. Box 942732
714 P Street
Sacramento, CA 94234-7320

- (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, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract 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 DHS 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, 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, 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, grant, loan, or cooperative agreement.

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: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: Year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> 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 Entity (If individual, last name, first name, MI):	b. Name and Address of Lobbying Entity (If individual, last name, first name, MI):	
(attach Continuation Sheets(s) SF-LLL-A, If necessary)		
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify: _____	
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind, specify: Nature _____ Value _____		
14. Brief Description of Services Performed or to be Performed and Dates(s) of Service, including Officer(s), Employee(s), or Member(s) Contracted for Payment indicated in item 11: (Attach Continuation Sheet(s) SF-LLL-A, If necessary)		
15. Continuation Sheet(s) SF-LLL-A Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
16. 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 Title 31, U.S.C., Section 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$19,000 and 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

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 recipients 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. Use the SF - LLL-A Continuation Sheet for additional information if the space on the form is inadequate. 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-90401."
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 entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.
10. (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. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with federal officials, identify the federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, 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 Exhibits

A. 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 DHS, as required by program directives. DHS shall provide the Contractor with copies of said documents and any periodic updates thereto, under separate cover. DHS will maintain on file, all documents referenced herein and any subsequent updates.

- 1) Local Share Budget(s) (signed and approved as final by the Contractor)
- 2) Local Incentive Award Program Guidelines Manual
- 3) Cancer Prevention and Nutrition Section Program Letters and any revisions thereto.

2. Contract Amendments

Should either party, during the term of this agreement, desire a change or amendment to the terms of this Agreement, such changes or amendments shall be proposed in writing to the other party, who will respond in writing as to whether the proposed changes/amendments are accepted or rejected. If accepted and after negotiations are concluded, the agreed upon changes shall be made through the State's official agreement amendment process. No amendment will be considered binding on either party until it is formally approved by the State.

3. Cancellation / Termination

- A. This agreement may be cancelled or terminated without cause by either party by giving thirty (30) calendar days advance written notice to the other party. Such notification shall state the effective date of termination or cancellation and include any final performance and/or payment/invoicing instructions/requirements.
- B. Upon receipt of a notice of termination or cancellation from DHS, Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent contract costs.
- C. Contractor shall be entitled to payment for all allowable costs authorized under this agreement, including authorized non-cancelable obligations incurred up to the date of termination or cancellation, provided such expenses do not exceed the stated maximum amounts payable.

4. Avoidance of Conflicts of Interest by Contractor

- A. DHS 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, DHS 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 prior DHS review and approval.

Exhibit E
Additional Provisions

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 contract.
- 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 DHS 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 under this agreement will have five (5) working days from the date of notification of the conflict by DHS to provide complete information regarding the suspected conflict. If a conflict of interest is determined to exist by DHS and cannot be resolved to the satisfaction of DHS, the conflict will be grounds for terminating the contract. DHS may, at its discretion upon receipt of a written request from the Contractor, authorize an extension of the timeline indicated herein.

5. Freeze Exemptions

(Applicable only to local government agencies.)

- A. Contractor agrees that any hiring freeze adopted during the term of this contract shall not be applied to the positions funded, in whole or part, by this contract.
- B. Contractor agrees not to implement any personnel policy, which may adversely affect performance or the positions funded, in whole or part, by this contract.
- C. Contractor agrees that any travel freeze or travel limitation policy adopted during the term of this contract shall not restrict travel funded, in whole or part, by this contract.
- D. Contractor agrees that any purchasing freeze or purchase limitation policy adopted during the term of this contract shall not restrict or limit purchases funded, in whole or part, by this contract.

FINAL LOCAL SHARE BUDGET
(Year 1)
(10/01/05 through 09/30/06)

Personnel	\$ 365,923
Fringe Benefits @ 22% of Personnel Salaries	\$ 114,736
Operating Expenses	\$ 132,366
Equipment	\$ 0
Travel	\$ 18,561
Subcontracts	\$ 0
Other Costs	\$ 59,889
Indirect Costs	\$ 45,685

APPROVED AS TO FORM
COUNTY COUNSEL

By *[Signature]*
Deputy 02/05/06

Total \$ 737,160

The Contractor may propose changes to this Local Share Budget. All changes are subject to prior written approval by the State. Said changes shall not require a formal contract amendment.

This Local Share Budget has been incorporated in the contract and made a part thereof by reference in Exhibit E, Additional Provisions, paragraph 1.A. As such, I hereby certify it as final and approved.

Signature and Title of Person with Contract Signature Authority

Date

FINAL LOCAL SHARE BUDGET
(Year 2)
(10/1/06 through 9/30/07)

Personnel	\$ 354,092
Fringe Benefits @ 22% of Personnel Salaries	\$ 110,808
Operating Expenses	\$ 133,657
Equipment	\$ 0
Travel	\$ 12,306
Subcontracts	\$ 0
Other Costs	\$ 60,714
Indirect Costs	\$ 42,388
Total	\$ <u>713,966</u>

APPROVED AS TO FORM:
COUNTY COUNSEL

By [Signature]
Deputy 12/09/06

The Contractor may propose changes to this Local Share Budget. All changes are subject to prior written approval by the State. Said changes shall not require a formal contract amendment.

This Local Share Budget has been incorporated in the contract and made a part thereof by reference in Exhibit E, Additional Provisions, paragraph 1.A. As such, I hereby certify it as final and approved.

Signature and Title of Person with Contract Signature Authority

Date

FINAL LOCAL SHARE BUDGET
(Year 3)
(10/1/07 through 9/30/08)

Personnel	\$ 365,923
Fringe Benefits @ 22% of Personnel Salaries	\$ 114,736
Operating Expenses	\$ 132,366
Equipment	\$ 0
Travel	\$ 18,561
Subcontracts	\$ 0
Other Costs	\$ 59,889
Indirect Costs	\$ 45,685
APPROVED AS TO FORM COUNTY COUNSEL	
By <u><i>James Lane</i></u> Deputy 02/09/08	
Total	\$ <u>737,160</u>

The Contractor may propose changes to this Local Share Budget. All changes are subject to prior written approval by the State. Said changes shall not require a formal contract amendment.

This Local Share Budget has been incorporated in the contract and made a part thereof by reference in Exhibit E, Additional Provisions, paragraph 1.A. As such, I hereby certify it as final and approved.

Signature and Title of Person with Contract Signature Authority

Date

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 Health Services (DHS) 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 percentage (0% to 100%) of the materials, goods, supplies or products offered or used in the performance of the above referenced contract meets or exceeds the minimum percentage of recycled material, as defined in Public Contract Code Sections 12161 and 12200.

Reminder to Return State Equipment/Property (If Applicable)

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

Unless DHS has approved the continued use and possession of State equipment (as defined in the above referenced contract) for use in connection with another DHS agreement, Contractor agrees to promptly initiate arrangements to account for and return said equipment to DHS, at DHS'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):

County of Tulare Health and Human Services Agency

Signature of Contractor or Official Designee: _____

Date: _____

Printed Name/Title of Person Signing: _____

DHS Distribution: Accounting (Original) Program

Travel Reimbursement Information
Effective July 1, 2004

1. The following rate policy is to be applied for reimbursing the travel expenses of persons under contract. *The terms "contract" and/or "subcontract" have the same meaning as "grantee" and/or "subgrantee" where applicable.*
 - a. Reimbursement for travel and/or per diem shall be at the rates established for nonrepresented/excluded state employees. *Exceptions to DPA lodging rates may be approved by DHS upon the receipt of a statement on/with an invoice indicating that such rates are not available.*
 - b. Short Term Travel is defined as a 24-hour period, and less than 31 consecutive days, and is at least 50 miles from the main office, headquarters or primary residence. Starting time is whenever a contract or subcontract employee leaves his or her home or headquarters. "Headquarters" is defined as the place where the contracted personnel spends the largest portion of their working time and returns to upon the completion of assignments. *Headquarters may be individually established for each traveler and approved verbally by the program funding the agreement. Verbal approval shall be followed up in writing or email.*
 - c. Contractors on travel status for more than one 24-hour period and less than 31 consecutive days may claim a fractional part of a period of more than 24 hours. Consult the chart appearing on page 2 of this exhibit to determine the reimbursement allowance. All lodging must be receipted. If contractor does not present receipts, lodging will not be reimbursed.

(1) Lodging (with receipts):

Travel Location / Area	Reimbursement Rate
Statewide (excluding the counties identified below)	\$ 84.00 plus tax
Counties of Los Angeles and San Diego	\$110.00 plus tax
Counties of Alameda, San Francisco, San Mateo, and Santa Clara	\$140.00 plus tax

Reimbursement for actual lodging expenses exceeding the above amounts may be allowed with the advance approval of the Deputy Director of the Department of Health Service or his or her designee. Receipts are required. *Receipts from Internet lodging reservation services such as Priceline.com, which require prepayment to that service, ARE NOT ACCEPTABLE LODGING RECEIPTS and are not reimbursable without a valid lodging receipt from a lodging establishment.*

- (2) Meal/Supplemental Expenses (with or without receipts): With receipts, the contractor will be reimbursed actual amounts spent up to the maximum for each full 24-hour period of travel.

Meal / Expense	Reimbursement Rate
Breakfast	\$ 6.00
Lunch	\$ 10.00
Dinner	\$ 18.00
Incidental expenses	\$ 6.00

- d. Out-of-state travel may only be reimbursed if such travel is *necessitated by the scope or statement of work* and has been approved in advance by the program with which the contract is held. For out-of-state travel, contractors may be reimbursed actual lodging expenses, supported by a receipt, and may be reimbursed for meals and supplemental expenses for each 24-hour period computed at the rates listed in c. (2) above. For all out-of-state travel, contractors/subcontractors must have prior *DHS written or verbal approval. Verbal approval shall be confirmed in writing (email or memo).*
- e. In computing allowances for continuous periods of travel of less than 24 hours, consult the chart appearing on page 2 of this exhibit.
- f. No meal or lodging expenses will be reimbursed for any period of travel that occurs within normal working hours, unless expenses are incurred at least 50 miles from headquarters.

Travel Reimbursement Information

Exhibit G (Continued)

2. If any of the reimbursement rates stated herein are changed by the Department of Personnel Administration, no formal contract amendment will be required to incorporate the new rates. However, DHS shall inform the contractor, in writing, of the revised travel reimbursement rates.
3. For transportation expenses, the contractor must retain receipts for parking; taxi, airline, bus, or rail tickets; car rental; or any other travel receipts pertaining to each trip for attachment to an invoice as substantiation for reimbursement. Reimbursement may be requested for commercial carrier fares; private car mileage; parking fees; bridge tolls; taxi, bus, or streetcar fares; and auto rental fees when substantiated by a receipt.
4. **Note on use of autos:** If a contractor uses his or her car for transportation, the rate of pay will be **34 cents** maximum per mile. If the contractor is a person with a disability who must operate a motor vehicle on official state business and who can operate only specially equipped or modified vehicles they may claim a rate of **37 cents** per mile. If a contractor uses his or her car "in lieu of" airfare, the air coach fare will be the maximum paid by the State. The contractor must provide a cost comparison upon request by the state. Gasoline and routine automobile repair expenses are not reimbursable.
5. The contractor is required to furnish details surrounding each period of travel. *Travel expense reimbursement detail may include, but not be limited to: purpose of travel, departure and return times, destination points, miles driven, mode of transportation, etc. Reimbursement for travel expenses may be withheld pending receipt of adequate travel documentation.*
6. Contractors are to consult with the program with which the contract is held to obtain specific invoicing procedures.

Travel Reimbursement Guide

Length of travel period	This condition exists...	Allowable Meal(s)
Less than 24 hours	Travel begins at 6:00 a.m. or earlier and continues until 9:00 a.m. or later.	Breakfast
Less than 24 hours	<ul style="list-style-type: none"> Travel period ends at least one hour after the regularly scheduled workday ends, or Travel period begins prior to or at 4:00 p.m. and continues beyond 7:00 p.m. 	Dinner
24 hours	Travel period is a full 24-hour period determined by the time that the travel period begins and ends.	Breakfast, lunch, and dinner
Last fractional part of more than 24 hours	Travel period is more than 24 hours and traveler returns at or after 8:00 a.m.	Breakfast
	Travel period is more than 24 hours and traveler returns at or after 2:00 p.m.	Lunch
	Travel period is more than 24 hours and traveler returns at or after 7:00 p.m.	Dinner

7. *At DHS' discretion, changes or revisions made by DHS to this exhibit, excluding travel policy established by DPA may be applied retroactively to any agreement to which a Travel Reimbursement Information exhibit is attached, incorporated by reference, or applied by DHS program policy.*

Exhibit H

CONTRACTOR EQUIPMENT PURCHASED WITH DHS FUNDS

Current contract number: _____

Previous contract number (if applicable): _____

Contractor's name: _____

Contractor's complete address: _____

Contractor's contact person: _____

Contact's telephone number: _____

Date current contract expires: _____

DHS program name: _____

DHS program contract manager: _____

DHS program address: _____

DHS program contract manager's telephone number: _____

Date of this report: _____

(THIS IS NOT A BUDGET FORM)

[illegible]

INSTRUCTIONS FOR HAS 1203

(Please read carefully.)

The information on this form will be used by the California Department of Health Services (DHS) Asset Management (AM) to track contract equipment and miscellaneous property (see definitions A, B, and C) which is purchased with DHS funds and is used to conduct state business under this contract. After the Standard Agreement has been approved and each time state/DHS equipment and/or miscellaneous property has been received, the DHS Program Contract Manager is responsible for obtaining the information from the Contractor and submitting this form to DHS AM. The DHS Program Contract Manager is responsible for ensuring the information is complete and accurate. (See *Health Administrative Manual (HAM)*, Section 2-1060 and Section 9-2310.)

Upon receipt of this form from the DHS Program Contract Manager, AM will fill in the assigned state/DHS property tag number, if applicable, for each item. AM will return the original form to the DHS Program Contract Manager, along with the appropriate property tags. The DHS Program Contract Manager will then forward the property tags and the original form to the Contractor and retain one copy until the termination of this contract. The Contractor should place property tags in plain sight and, to the extent possible, on the item's front left-hand corner. The manufacturer's brand name and model number are not to be covered by the property tags.

1. If the item was shipped via the DHS warehouse and was issued a state/DHS property tag by warehouse staff, fill in the assigned property tag. If the item was shipped directly to the Contractor, leave the first column blank.

2. Provide the quantity, description, purchase date, base unit cost, and serial number (if applicable) for each item of:

A. Major Equipment:

- Tangible item having a base unit cost of \$5,000 or more and a life expectancy of one (1) year or more.
- Intangible item having a base unit cost of \$5,000 or more and a life expectancy of one (1) year or more (e.g., software, video).

These items are issued green numbered state/DHS property tags.

B. Minor Equipment: Tangible item having a base unit cost less than \$5,000 with a life expectancy of one (1) year or more and listed on DHS AM's "Minor Equipment List". (A "Minor Equipment List" can be printed from HAM Section 2-1030.) **These items are issued green numbered state/DHS property tags.**

C. Miscellaneous Property: Specific tangible items with a life expectancy of one (1) year or more that are purchased with DHS funds (furniture, cabinets, typewriters, desktop calculators, portable dictators, nondigital cameras.) **These items are issued green unnumbered "BLANK" state/DHS property tags.** NOTE: It is DHS policy not to tag modular furniture. (See your Federal rules, if applicable.)

3. Provide the DHS Purchase Order (STD 65) number if the items were purchased by DHS. (See HAM, Section 2-1050.1.)

4. If a vehicle is being reported, provide the Vehicle Identification Number (VIN) and the vehicle license number to DHS Vehicle Services. (See HAM, Section 2-10050.)

5. If all items being reported do not fit on one form, make copies and write the number of pages being sent in the upper right-hand corner (e.g., "Page 1 of 3.") The DHS Program Contract Manager should retain one copy and send the original to: Department of Health Services, Asset Management, P.O. Box 997413, 1501 Capitol Avenue, Suite 71.2101, MS 1404, Sacramento, CA 95899-7413.

6. Property tags that have been lost or destroyed must be replaced. Replacement property tags can be obtained by contacting AM (916) 650-0124.

7. Use the version on the DHS Intranet forms site. The HAS 1203 consists of one page for completion and one page with information and instructions.

Exhibit I

INVENTORY/DISPOSITION OF DHS-FUNDED EQUIPMENT

Current contract number: _____

Previous contract number (if applicable): _____

Contractor's name: _____

Contractor's complete address: _____

Contractor's contact person: _____

Contact's telephone number: _____

Date current contract expires: _____

DHS program name: _____

DHS program contract manager: _____

DHS program address: _____

DHS program contract manager's telephone number: _____

Date of this report: _____

[illegible]

INSTRUCTIONS FOR HAS 1204

(Please read carefully.)

The information on this form will be used by the California Department of Health Services (DHS) Asset Management (AM) to: (a) conduct an inventory of DHS equipment and property (see definitions A, B, and C) in the possession of the Contractor and/or Subcontractors, and (b) dispose of these same items. Report all items, regardless of the items' ages, per number 1 below, purchased with DHS funds and used to conduct state business under this contract. (See *Health Administrative Manual (HAM)*, Section 2-1060 and Section 9-2310.)

The DHS Program Contract Manager is responsible for obtaining information from the Contractor for this form. The DHS Program Contract Manager is responsible for the accuracy and completeness of the information and for submitting it to AM.

Inventory: List all DHS tagged equipment and miscellaneous property on this form and submit it within 30 days prior to the three-year anniversary of the contract's effective date, if applicable. **The inventory should be based on previously submitted HAS 1203s,** "Contractor Equipment Purchased with DHS Funds." AM will contact the DHS Program Contract Manager if there are any discrepancies. (See HAM, Section 2-1040.1.)

Disposal: (*Definition: Trade in, sell, junk, salvage, donate, or transfer; also, items lost, stolen, or destroyed (as by fire).*) The HAS 1204 should be completed, along with a "Property Survey Report" (STD. 152) or a "Property Transfer Report" (STD. 158), whenever items need to be disposed of; (a) during the term of this contract and (b) 30 calendar days before the termination of this contract. After receipt of this form, the AM will contact the DHS Program Contract Manager to arrange for the appropriate disposal/transfer of the items. (See HAM, Section 2-1050.4.)

1. List the state/DHS property tag, quantity, description, purchase date, base unit cost, and serial number (if applicable) for each item of:

A. Major Equipment: **(These items were issued green numbered state/DHS property tags.)**

- Tangible item having a base unit cost of \$5,000 or more and a life expectancy of one (1) year or more.
- Intangible item having a base unit cost of \$5,000 or more and a life expectancy of one (1) year or more (e.g., software, video.)

B. Minor Equipment: **(These items were issued green numbered state/DHS property tags.)**

- Tangible item having a base unit cost less than \$5,000 with a life expectancy of one (1) year or more and listed on DHS AM's "Minor Equipment List". (A "Minor Equipment List" can be printed from HAM, Section 2-1030.)

C. Miscellaneous Property: **(These items were issued green unnumbered "BLANK" state/DHS property tags.)**

- Specific tangible items with a life expectancy of one (1) year or more that are purchased with DHS funds (furniture, cabinets, typewriters, desktop calculators, pocket dictators, nondigital cameras.)

2. If a vehicle is being reported, provide the Vehicle Identification Number (VIN) and the vehicle license number to DHS Vehicle Services. (See HAM, Section 2-10050.)

3. If all items being reported do not fit on one page, make copies and write the number of pages being sent in the upper right-hand corner (e.g. "Page 1 of 3.")

4. The DHS Program Contract Manager should retain one copy and send the original to: Department of Health Services, Asset Management, P.O. Box 997413, 1501 Capitol Avenue, Suite 71.2101, MS 1404, Sacramento, CA 95899-7413.

5. Use the version on the DHS Intranet forms site. The HAS 1204 consists of one page for completion and one page with information and instructions.

For more information on completing this form, call AM at (916) 650-0124.

APPROVED AS TO FORM:
COUNTY COUNSEL

CCC-304

By 
Deputy

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i> County of Tulare		<i>Federal ID Number</i> 94-6000545
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i> Tulare	

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

*4. UNION ORGANIZING: Contractor hereby certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote or deter union organizing.

*This provision is stayed pending the outcome of the litigation entitled *Chamber of Commerce v. Lockyer* (2004) 364 F3d 1154.

5. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

6. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

7. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3)

finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

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