



California Health Benefit Exchange Covered California™

Request for Proposal

RFP 2016-11 Form 700 Management System

Addendum 2 – October 25, 2016

Purpose of Addendum 2:

1. Revise Sec. 1.2, Key Action Dates.
2. Add Exhibit F, Privacy and Security Requirements, to the Model Contract.
3. Provide time for the Exchange to develop a subsequent Addendum 3 which will include criteria for Bidder demonstrations.
4. Provide for second Bidder demonstrations with all members of the Exchange's evaluation team in attendance.

All other section of the RFP remain the same.

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1. INTRODUCTION

1.1 Overview

You are invited to review and respond to this Request for Proposal (RFP). By submitting a proposal, your organization agrees to the terms and conditions stated in this RFP.

Read this document carefully. You must comply with the instructions contained in this document. Responses to this RFP must be submitted to the California Health Benefit Exchange (Covered California) contact noted in section 1.3 below.

1.2 Key Action Dates

Bidders are advised of the key dates and times shown below and are expected to adhere to them. All times noted in this document are Pacific Time (PT).

KEY ACTION DATES

Request for Proposal Release Date:	Tuesday, October 18 2016
Questions Due Date and Time:	<u>9:00 a.m. Thursday, December 15, 2016</u> 2:00 Friday, October 28, 2016
Responses Posted By:	Tuesday, <u>December 20, 106</u> November 1, 2016
Proposals Due Date and Time:	1:00 p.m. Monday, November 7, 2016
Demonstrations - <u>Required</u>Optional:	<u>Week of January 3 to 6, 2017</u> November 9 and 10, 2016
Notice of Intent to Award:	Week of <u>January 9 to 13, 2017</u> November 14 - 18, 2016
Estimated Term Dates:	<u>January 25, 2017, December 1, 2016,</u> to June 30, 2019

1.3 Contact

E-mail address: HBEXSolicitation@covered.ca.gov

For all communications, subject line must include: RFP 2016-11.

California Health Benefit Exchange
Business Services Branch/JoAnne French
1601 Exposition Blvd.
Sacramento, CA 95815

Phone calls will not be accepted.

1.4 Contract Amount

Responses shall not exceed \$31,000 in total costs. Responses that exceed this amount will not be considered for selection.

It is expected that the estimated funding for the contract will be approximately \$7,000 for first year and \$12,000 for each of years two and three for the term of the contract including extensions, if any.

Funding is subject to annual budget approval by the Covered California Board of Directors. If full funding does not become available, Covered California may terminate or amend the contract to reflect reduced funding and reduced deliverables.

1.5 Contract Term

The initial term of the contract shall be for two (2) years and seven (7) months, December 1, 2016, through June 30, 2019. The contract term is subject to change.

The resulting contract will be of no force or effect until signed by both parties. Performance shall not commence until a valid contract has been executed between the successful Bidder and Covered California. Covered California will not pay for any services performed prior to the execution of a valid contract.

1.6 Contract Amendment

Covered California may, at its sole discretion, extend the term of the contract for two (2) additional consecutive years for the same services.

If mutually agreed by Covered California and the Contractor, this contract shall be amended to include additional funding at the same rates provided in the Bidder's original proposal.

1.7 Bidders' Questions

Bidders shall submit questions regarding this RFP by the due date and time specified in the Key Action Dates table in section 1.2. Only email questions addressed to the contact person listed in section 1.3 will be accepted. Bidders shall provide specific information to enable Covered California to identify and respond to their questions. When submitting questions, please reference the RFP number. Answers to questions received during the Bidder Question time period shall be posted on the HBEX website at <http://hbex.coveredca.com/solicitation/>. Bidders who fail to report a known or suspected problem with the RFP or who fail to seek clarification or correction of the RFP, shall submit a proposal at their own risk.

At its discretion, Covered California may contact a Bidder to seek clarification of any question received.

1.8 Submission of Final Proposals

1. Bidders' Cost: Costs for developing proposals or attending Bidder conferences are entirely the responsibility of the Bidder and are not chargeable to Covered California.
2. Completion of Proposals: Proposals must be complete in all respects as described in the requirements established within the RFP. A Final Proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. A Final Proposal must be rejected if any such defect or irregularity constitutes a material deviation from the RFP requirements as determined

by Covered California, in its sole discretion. The Final Proposal must contain all items required in the RFP.

3. **False or Misleading Statements:** Proposals which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the Bidder, may be rejected. If, in the opinion of Covered California, such information was intended to mislead Covered California in its evaluation of the proposal, and the attribute, condition or capability is a requirement of this RFP, it will be the basis for rejection of the proposal.
4. **Errors:** If a Bidder discovers any ambiguity, conflict, discrepancy, omission or other error in this RFP, the Bidder shall immediately notify Covered California of such error in writing and request modification or clarification of the RFP. Modifications or clarifications will be given by written notice and posted on the HBEX website at <http://hbex.coveredca.com/solicitations/> without divulging the source of the request for modification or clarification. Covered California shall not be responsible for failure to correct errors.
5. **Importance of Meeting Deadlines:** Bidders are responsible for the delivery of submissions to Covered California prior to the submission deadline. If Bidder mails or ships the submission and provides Covered California with the tracking information and the package tracking information indicates its arrival at Covered California by the submission deadline, the package will be considered to have arrived on time. Postal service postmarks, however, will not be accepted as proof of timely delivery. Faxed or electronic submissions will not be accepted. The RFP has stated deadlines for submitting materials to Covered California which will be strictly enforced. Submissions that are incomplete or received after the stated deadline will not be accepted or reviewed.

Responses to the RFP will be assessed based on determining the “Best Value” and the selection, if made, will be to a single Bidder. The Scope of Work (SOW) and bid may be made a part of the resulting Contract.

1.9 Format of Proposals

This RFP requires Bidders to submit a Final Proposal that shall contain all required Administrative and Technical Attachments and Exhibits, and that is submitted in a sealed envelope or container when delivered to Covered California. The sealed package must be plainly marked with the (1) RFP number and title, (2) Bidder’s name and address, and (3) must be marked “DO NOT OPEN,” as shown in the following example:

RFP 2016-11: Form 700 Management System
Attention: JoAnne French
California Health Benefit Exchange
Business Services Branch
1601 Exposition Blvd.
Sacramento, CA 95815
DO NOT OPEN

Bids not submitted under sealed cover may be rejected.

1. Copies Required

Provide one hardcopy marked "MASTER," and six additional hard copies and one CD-ROM of all requested materials. The digital copy, including all attachments and any updated exhibits, if applicable, must be provided in searchable text format (e.g., Microsoft™ Word®, searchable Adobe® PDF) and free of any password or encryption protection.

Each copy of the proposal must be complete, including all required attachments and documentation submitted in the "MASTER."

2. Narrative Format

- a. Narrative portions of proposal responses should be prepared so as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Emphasis should be on conformance with the RFP instructions, responsiveness to the RFP requirements and completeness and clarity of content. Expensive bindings, colored displays, promotional materials, etc., are not necessary or desired.
- b. Bidders must follow the format requirements listed below for all narrative portions of the RFP. Failure to do so may result in an entire proposal or affected section not being read or evaluated.
 - 1) Use a Times New Roman, Arial, or Calibri font of at least 12-point size throughout. Exception: if a form is required by the State that contains a smaller font.
 - 2) Print pages single-sided on letter size (8.5 by 11 inches) white paper with 1.0 line spacing, unless otherwise noted.
 - 3) Use one-inch margins at the top, bottom and sides.
 - 4) Sequentially number the pages in each section and clearly identify each section in the order requested. When a page limit is noted, pages exceeding the limit will not be scored. It is not necessary to paginate the required forms.
 - 5) Have a person who is authorized to bind the proposing firm sign each RFP attachment that requires a signature in **blue** ink. Signature stamps are not acceptable.
 - 6) Place the original signed attachments in the set marked "MASTER." Additional copies may have photocopied signatures on attachments and throughout the document.
 - 7) If Bidder wishes to propose changes to the Model Contract, using track changes, indicate the proposed changes by including only those sections of the model being changed. If there are no proposed changes, indicate in

writing there are no proposed changes to the Model Contract, but do not sign and return the Model Contract.

3. All proposals must be based on the Model Contract provided with this solicitation as described in Exhibit A – Scope of Work, and contract General Terms and Conditions provided in Exhibits C, D and E. Bidders should review the Model Contract in its entirety prior to submitting a proposal. Bidders must submit as part of their response any changes or exceptions to the Model Contract that they wish to negotiate. However, extensive exceptions to the Model Contract may make the proposal non-responsive to the RFP if Covered California determines the proposed exceptions materially change the contractual relationship between the parties. Bidder changes or exceptions must be documented via track changes to the documents contained in the Model Contract. All Model Contract changes or exceptions must be included in the Bidder Proposal at the time of submission. No additional exceptions may be presented during contract negotiations and Covered California reserves the right to reject all exceptions in the Bidder Proposal.

1.10 Covered California Rights

1. Verification of Bidder Information

By submitting a proposal, Bidders agree to authorize Covered California to:

- a. Verify any and all claims made by the Bidder including, but not limited to, verification of prior experience and the possession of other required qualifications.
 - b. Check any reference identified by a Bidder or other resources known by the State to confirm the Bidder's business integrity and history of providing effective, efficient, competent and timely services.
2. Covered California may modify the RFP prior to the bid submission deadline by the issuance of an addendum on the HBEX website at <http://coveredca.com/solicitations/>.
 3. Covered California reserves the right to reject any bid that does not satisfy the requirements set forth in the RFP. Before submitting a response to this RFP, Bidders should review, correct all errors, and confirm compliance with the RFP requirements.

1.11 Rejection of Proposals

Deviations may cause a proposal to be non-responsive and may not be considered for award. Covered California may reject any or all proposals and may waive any immaterial deviation or defect in a proposal. Covered California's waiver of any immaterial deviation or defect shall in no way modify the RFP documents or excuse the Bidder from full compliance with the RFP specifications if awarded a contract.

FINAL PROPOSALS NOT RECEIVED BY THE DATE AND TIME SPECIFIED IN SECTION 1.2 KEY ACTION DATES OR NOT SEALED will remain unopened and will be maintained by the Contact listed in section 1.3 separately from proposals that have been timely received. Proposals received after expiration of the deadline may only be opened

and considered upon written approval of the Executive Director or designee specifying the reason(s) for acceptance and consideration of the untimely proposal.

Issuance of this RFP in no way constitutes a commitment by Covered California to award a contract. Covered California reserves the right to reject any or all proposals, or portions of proposals, received in response to this RFP, or to amend or cancel this RFP at any time. In the event of such cancellation, Covered California may reissue the RFP at a later date.

Covered California reserves the right to consider Contractor's past performance with Covered California in its selection of a Bidder pursuant to this RFP.

1. Non-responsive Proposals

A proposal may be deemed non-responsive and subsequently rejected if any of the following occurs:

- a. At any time a submission is received after the exact time and date set forth in section 1.2 Key Action Dates for receipt of each submission.
- b. The Bidder fails to meet any of the eligibility requirements as specified in section 2, Minimum Qualifications.
- c. The Bidder fails to submit or fails to complete and sign required Attachments as instructed in this RFP.
- d. The submission contains false, inaccurate or misleading statements or references.
- e. The Bidder is unwilling or unable to fully comply with the proposed contract provisions.
- f. The Bidder supplies conditional cost information, incomplete cost information, or cost information containing unsigned/uninitiated alterations or irregularities.

2. Business In Good Standing

Bidder acknowledges that when agreements are to be performed in the State by corporations or vendors, the State will verify, prior to awarding any State contract, the following information in order to ensure that all obligations due to the State are fulfilled:

Corporation in Good Standing

The State will verify with the Office of the Secretary of State (SOS) that the Bidder is a corporation currently qualified to do business in California. The bid will be considered non-responsive if the Bidder is not listed with the SOS.

“Doing business” is defined in Revenue and Taxation Code 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.

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.

State Tax Delinquency

The State will verify with the Franchise Tax Board (FTB) and Board of Equalization (BOE) that the Bidder is not on a prohibited list due to tax delinquencies. The bid will be considered non-responsive if the Bidder appears on any of these lists.

The list established by FTB can be found here:

https://www.ftb.ca.gov/aboutFTB/Delinquent_Taxpayers.shtml

The list established by BOE can be found here: <http://www.boe.ca.gov/cgi-bin/deliq.cgi>

1.12 Errors in Final Proposals

An error in the Final Proposal may cause the rejection of that proposal; however, Covered California may, AT ITS SOLE OPTION, retain the proposal and make certain corrections. In determining if a correction will be made, Covered California will consider the conformance of the proposal to the format and content required by the RFP, and any unusual complexity of the format and content required by the RFP.

1. If the Bidder's intent, as determined by Covered California, is clearly established based on review of the complete Final Proposal submittal, Covered California may at its sole option correct an error based on that established intent.
2. Covered California may at its sole option correct obvious clerical errors.
3. A Bidder may modify a bid after submission by withdrawing its original bid and resubmitting a new bid prior to the bid submission deadline. Bidder modifications offered in any other manner, oral or written, will not be considered.
4. A Bidder may withdraw its bid by submitting a written withdrawal request to Covered California, signed by the Bidder or an authorized agent. Bids may not be withdrawn subsequent to the bid submission deadline without cause.
5. No oral understanding or contract shall be binding on either party.

Covered California reserves the right to contact Bidders at any stage of the proposal process to collect additional clarifying information, if deemed necessary.

1.13 Protest

For formal competitive solicitations, any protest properly submitted within five (5) business days of the posting of the Notice of Intent to Award must be considered. All protests are reviewed and decided by the Executive Director or designee.

The following protest procedures must be followed and included in all formal competitive solicitations:

General

An unsuccessful Bidder may protest the proposed award to another bidder by following the terms and conditions outlined below. The protestant challenging Covered California's proposed award bears the burden of proof.

Grounds

Protestant must cite the grounds for the protest and provide facts and citations of law sufficient to support the protest. Covered California will determine, in its sole discretion, if the protestant has demonstrated sufficient grounds to allow the protest to be heard. Abuse of the protest process by unsuccessful Bidders solely for the purpose of securing confidential information about other Bidders will be rejected by Covered California. The only grounds for a protest are:

1. Protestant reasonably believes that Covered California has acted in an arbitrary and capricious manner; or
2. Protestant reasonably believes that Covered California committed an error in its bid process, as stated in the solicitation that is sufficiently material to justify invalidation of the proposed award.

There is no basis for protest if Covered California rejects all bids or proposals, based on its best interests.

Requirements for Protest

Protests will be heard and resolved by the Covered California Executive Director or designee. Protests must be submitted in writing, signed by an individual who is authorized to contractually bind the Bidder and contain a statement asserting the grounds for the protest including citations of law, rule, regulation or procedures on which the protest is based. The protestant must allege facts and evidence in support of their claim. A protest must be delivered to Covered California by certified or registered mail or in person, in which case the protestant should obtain a delivery receipt. Protests must be received by Covered California no later than the close of business five days after the Notice of Intent to Award has been posted.

Protests must be mailed or delivered to:

Mailing Address:
California Health Benefit Exchange
Attn: Peter Lee, Executive Director
1601 Exposition Blvd.
Sacramento, CA 95815

The Executive Director's or designee's decision is final.

Terms of Protest

Scoring documents, evaluation and selection documents, other Bidders' submissions or any other record created during the review of bids submitted in response to the RFP are not public records and are exempt from disclosure as public records pursuant to Government Code section 100508(a).

A protestant who has demonstrated a legitimate ground for protest as described above may have access to certain relevant, non-public information regarding the RFP and

Covered California's consideration of submissions in response to the RFP upon the protestant's execution of a Non-Disclosure Agreement provided by Covered California. Trade secret, proprietary and confidential information will be redacted from documents disclosed to protestant as part of the protest process.

1.14 Disposition of Bids

Upon bid opening, all documents submitted in response to this RFP will become the property of the State of California.

1.15 Contract Execution and Performance

Performance shall begin no later than the date set forth in the RFP by Covered California and after the contract is fully executed, unless a later date is mutually agreed on by Covered California and the Contractor. Should the Contractor fail to commence work on the agreed date and time, Covered California, upon five (5) days written notice to the Contractor, reserves the right to terminate the contract. In addition, the Contractor shall be liable to Covered California for the difference between the Contractor's bid price and the actual cost of performing the work by a replacement Contractor.

All performance under the contract shall be completed on or before the termination date of the contract.

1.16 Subsequent Solicitation

At Covered California's sole discretion, after the contract award has been made and the contract has been executed, if the contract is terminated with or without cause after performance has begun, Covered California may engage the next-highest-ranked Bidder without performing a subsequent solicitation.

Additionally, if at any time during negotiation of an agreement with the successful Bidder, Covered California determines it is not able to reach an agreement with the successful Bidder, Covered California may terminate the negotiations and engage the next-highest-ranked bid without performing a subsequent solicitation.

1.17 Addition or Subtraction of Services

Notwithstanding that bids have been submitted, at Covered California's sole discretion, the Scope of Work may be modified prior to contract award to add or remove services through an addendum. If bids have been submitted at the time Covered California posts the addendum, Covered California may restrict responses so that only entities that have submitted bids in response to the initial RFP may respond to the addendum.

1.18 News Releases and Social Media

Bidders and the selected Contractor may not issue news releases nor make statements to the news media or through social media channels pertaining to this RFP, its proposal, the contract, or work resulting therefrom, without first obtaining prior approval from Covered California.

2. MINIMUM QUALIFICATIONS

2.1 Project Team Minimum Qualifications

The minimum required qualifications for Bidders include:

1. Minimum of twenty (20) proven successful installations of an e-filing and admin system for the purpose of managing the Form 700 filings.
2. Cost must include unlimited training, support and maintenance. No additional costs for upgrades, IT labor, hardware, bandwidth or security updates or patches.
3. Paperless system which includes the registration with the Fair Political Practices Commission (FPPC) for paperless filings, as appropriate.
4. Compatibility with FPPC and their regulations.
5. Ability to manage and track all types of Form 700 filings, each user getting their own log-in and password.
6. Ability to maintain a thousand users.
7. Ability to train and support the Form 700 filings within the rules and regulations of the FPPC.
8. Establish a secure public site for outside requestors to view Form 700 filings.
9. Require the filer to complete their filing correctly before allowing it to submit.
10. Reporting capabilities for all types of filers and schedules.
11. Automatically generate emails for reminders.
12. Ability to allow contact information to be stored in each filer's file.
13. Unlimited time and size storage.
14. The ability to accept scanned documents, in lieu of computer entry, when a computer is not available for filers to input their information.
15. Mobile application for filers to be able to access and file using their cellular device.
16. Email blast capability.

2.2 Project Team Desirable Qualifications

Covered California seeks Bidders with the following desirable skills:

1. Experience handling FPPC Form 700 and working with government agencies.
2. Previous Form 700 filers' data populates new filings.

3. Compatible with any Windows PC, Mac, or Linux system with current browser.
5. The program allows for paper and paperless filings.
6. The online or electronic filing system shall ensure the integrity of the data transmitted and shall include safeguards against efforts to tamper with, manipulate, alter or subvert the date or any other information held.
7. The program will be in compliance, updated forms and information on all filings.
8. Filings will not be allowed to be incomplete, missing information before the submission is complete.
9. The program will feature audit reporting and tracking.
10. Ability to handle all types of Form 700 statements and all schedules.

2.2.1 Project Team Qualifications

Covered California seeks a team with experience and knowledge of, or experience in, the process outlined in this RFP and the Model Contract Exhibit A – Scope of Work. Bidder must demonstrate that project team members assigned to the project possess the experience, education, knowledge and skills required to perform the work described in this RFP.

Minimum Qualifications for the project team include experience in the following areas:

Account Manager who will be responsible for building and managing system set up for account management.

Trainers who will be supplied at no additional cost to completely train Covered California staff on the back office of the system.

2.3 Reassignment of Personnel

1. The Contractor shall not reassign personnel assigned to the contract during the contract term without prior written approval of Covered California. If a Contractor employee is unable to perform duties due to illness, resignation, or other factors beyond the Contractor's control, the Contractor shall make every reasonable effort to provide suitable substitute personnel.
2. Substitute personnel shall not automatically receive the hourly rate of the individual or position being replaced. Covered California and the Contractor shall negotiate the hourly rate of any substitute personnel to the contract. The hourly rate negotiated shall be dependent, in part, on the experience and individual skills of the proposed substitute personnel. The negotiated rate cannot exceed the hourly rate stated in the contract.

3. Covered California reserves the right to request a Contractor employee be removed from performing any work on the contract and on written notice to the Contactor, the Contractor shall assign a substitute employee.

3. SCOPE OF WORK

3.1 Background

Soon after the passage of national health care reform through the Patient Protection and Affordable Care Act of 2010 (ACA), California became the first state to enact legislation to establish a qualified health benefit exchange. The California state law is referred to as the California Patient Protection and Affordable Care Act (CA-ACA).

The goals and objectives of Covered California are to:

- Reduce the number of uninsured Californians by creating an organized, transparent marketplace for Californians to purchase affordable, quality health care coverage, to claim available federal tax credits and cost-sharing subsidies, and to meet the personal responsibility requirements imposed under the ACA;
- Strengthen the health care delivery system;
- Serve as an active purchaser, including creating competitive processes to select participating carriers and other contractors;
- Require that health care service plans and health insurers issue coverage in the individual and small employer markets and compete on the basis of price, quality, and service, and not on risk selection; and
- Meet federal and state law requirements, guidance and regulations.

Covered California is an independent public entity within California State government. It is governed by a five-member board appointed by the governor and legislature.

Covered California works in close partnership with:

- The Department of Health Care Services, which oversees and administers California's Medicaid Program (Medi-Cal) and other specifically-focused health programs;
- The two agencies that regulate health insurance in California, the Department of Managed Health Care and Department of Insurance; and
- A broad range of stakeholders whose constituencies will be impacted by health care reform.

For additional information on Covered California, please refer to the consumer website at: www.CoveredCA.com.

3.2 Purpose

The purpose of this RFP is for Covered California to solicit proposals from qualified Bidders to provide a system to track and monitor the elements required for a successful Form 700 management system. It would make all the filings accessible to the press and the public in order to facilitate the filing process for individual filers and maximize compliance.

3.3 Scope of Work

See attachment Model Contract Exhibit A – Scope of Work, for a detailed description of the services and work to be performed as a result of this procurement.

3.4 Contract Completion Criteria

The contract resulting from this RFP will be considered complete when Covered California has approved and accepted all assigned contract deliverables.

3.5 Deliverable Acceptance Criteria

All concluded work must be submitted to Covered California for review and approval or rejection. Payment for all tasks performed under this RFP will be based on time and materials. It will be Covered California's sole determination as to whether any tasks have been successfully completed and are acceptable.

Throughout the contract, Covered California will review and validate services performed. In addition, the Covered California Representative will verify and approve the Contractor's invoices. Signed acceptance is required from the Covered California Representative to approve an invoice for payment.

Deliverable acceptance criteria consist of the following:

1. Deliverable-specific work was completed as specified and the final deliverable product or service was rendered.
2. Plans, schedules, designs, documentation, digital files, photographs and reports (deliverables) were completed as specified and approved.
3. All deliverable documentation and artifact gathering have been completed.
4. All deliverables are in a format useful to Covered California.
5. If a deliverable is not accepted, Covered California will provide the reason, in writing, within ten (10) business days of receipt of the deliverable.

3.6 Contractor's Roles and Responsibilities

The Contractor shall:

1. Designate a person to whom all project communications may be addressed and who has the authority to act on all aspects of the contract. This person will be responsible

for the overall project and will be the contact for all invoicing and Contractor staffing issues.

2. Provide written reports for review and approval by Covered California and formally respond to Covered California review findings as necessary.
3. Meet as required with Covered California staff to discuss progress.
4. Make its best efforts to maintain staff continuity throughout the life of the project. If, however, a substitution becomes necessary, the Contractor must submit resumes for review, in advance, for all proposed personnel substitutions. All Contractor personnel substitutions must be approved in writing by the Covered California Representative. Failure to receive the required approvals may result in termination of the contract.

3.7 Covered California's Roles and Responsibilities

Covered California shall:

1. Designate a Covered California contact person (Representative) to whom all Contractor communications will be addressed and who has the authority to act on all aspects of the contract.
2. Provide access to business and technical documents as necessary for the Contractor to complete the tasks identified in this RFP.
3. Ensure appropriate resources are available to perform assigned tasks, attend meetings, and answer questions.
4. Ensure that decisions are made in a timely manner.
5. Provide work areas and meeting rooms as needed.
6. Identify and provide access to Subject Matter Experts to assist in the development of technical requirements.

3.8 Project Assumptions and Constraints

1. The Contractor's work hours must be consistent with Covered California's key staff on-site, whose normal business hours are 8:00 a.m. to 5:00 p.m. PT, Monday through Friday, except for State holidays.
2. Overtime rates will not be reimbursed under the contract.
3. Travel will not be reimbursed under the contract.

Any modifications to tasks within Exhibit A – Scope of Work of the contract will be defined, documented, and mutually agreed upon by the Contractor and Covered California's Representative prior to starting work on the modified task. Covered California's Representative may refine or clarify the services deemed necessary to meet the needs of this project according to Covered California's priorities.

4. Covered California and the Contractor are mutually obligated to keep open and regular channels of communication in order to ensure the successful performance of the contract. Both parties are responsible for communicating potential problems or issues to Covered California's Representative and the Contractor's project team manager, respectively, within forty-eight (48) hours of becoming aware of the problem or issue.

3.9 Payment and Invoicing

Payment to Contractor is contingent on Covered California's receipt of funding from the Federal government or the collection of fees assessed on the Qualified Health Plans. Covered California shall bear no liability or responsibility for payment to Contractor, even for services provided and delivered, in the event payment to Covered California from the Federal government or the collection of fees assessed on the Qualified Health Plans is delayed, suspended or terminated.

The Contractor may invoice Covered California only after the successful completion and acceptance of the contract deliverables. The Contractor may not invoice Covered California for any costs exceeding the maximum amount identified to complete a deliverable.

4. PROPOSAL RESPONSE CONTENT

Final proposal requirements are contained in the following areas that are described in detail in subsequent sections of this document:

1. Administrative Requirements
2. Understanding and Approach
3. Corporate Qualifications Summary
4. Project Team Experience
 - a. Staff Resumes
5. Past Projects Completed
6. Assumptions
7. Updated Model Contract. Exhibit B, Attachment 1, is required. Include Exhibits A, B, C and D only if proposing changes.
 - a. Optional: Using the Exhibit A – Scope of Work template, include revised Exhibit A with updated Scope of Work, using track changes.
 - 1) Understanding and Description of the tasks to be performed (Work Plan)
 - b. Required - Costs: Include revised Exhibit B – Budget Detail and Payment Provisions and Exhibit B, Attachment 1 – Cost Worksheet, using track changes.

Optional: Include Exhibits C, D and E with track changes to the Terms and Conditions. If Bidder does not submit any Exhibits with track changes, it will be deemed to be Bidder's acceptance of the Exhibits as drafted.

4.1 Proprietary Information and Confidential Status of Responses

Any documentation submitted which has been marked "Proprietary" or "Trade Secrets" may be rejected.

4.2 Administrative Requirements

Final Proposals will be assessed on a pass/fail basis to verify compliance with all Administrative Requirements.

4.2.1 *All Final Proposals must be submitted within the timelines specified in Section 1.2 of this RFP, and shall include the following Administrative Requirements in this order:*

1. The "Proposal Checklist" form (Attachment 1) completed and assigned by a representative authorized to bind your organization.
2. A Certificate of Liability Insurance equal to or greater than \$1,000,000.
3. Proof of Workers' Compensation Liability Insurance.
4. Proof of Automobile liability, including non-owned auto liability, of \$1,000,000 per occurrence for persons used by Contractor for services provided pursuant to this Agreement.
5. A signed Federal Debarment Certification (Attachment 2).
6. A completed certification form showing, upon contract execution, the Bidder agrees to provide a completed Title 10, California Code of Regulations, Chapter 12, Article 1, Statement of Economic Interests (Form 700) (Attachment 3). For more information, see the California Health Benefit Exchange Conflict of Interest Code: <http://hbex.coveredca.com/resources/>, and the Fair Political Practices Commission site: <http://www.fppc.ca.gov/>
7. A signed Payee Data Record form STD 204 (Attachment 4)

4.3 Technical Requirements

In addition to the Administrative Requirements, all Final Proposals must:

4.3.1 *Understanding and Approach*

Include a description of the Bidder's understanding of the project's goals, emphasizing the Bidder's understanding of the objectives and the major activities that must be performed to complete the work. Discuss the Bidder's strategy for providing the services outlined in the solicitation within the time period allocated for

that task. Include expectations of all entities outside the Bidder's own team, if any. Provide the assumptions used to develop the response. (No more than 3 pages.)

4.3.2 Corporate Qualifications Summary

Describe and provide examples of the Bidder's overall capability and resources as they relate to the general requirements set forth in this RFP's Model Contract Exhibit A – Scope of Work, including the following:

1. Ability to manage the project and the risks involved.
2. Ability to complete projects on time and within budget.
3. Ability to provide quality deliverables.
4. Evidence of the Bidder's experience performing the services outlined in this RFP, including the total number of years the Bidder has been providing these services.

(No more than 5 pages).

4.3.3 Project Team Qualifications

Describe the qualifications of each member of the proposed project team. Identify the role each member is expected to play and describe the experience, education, knowledge and skills each possesses as they relate to their proposed role.

Bidder must identify the key staff that will be the points of contact for Covered California and the percentage of time that staff will be dedicated to the work detailed in the Model Contract Exhibit A – Scope of Work. (No more than 2 pages.)

4.3.3.1 Resumes

Provide a resume of the relevant experience for each proposed project team member. For each experience cited on a resume, the resume must include:

1. Total Duration: Indicate the start (month/year), end (month/year), and duration (total number of years and months) for each job experience submitted;
2. Description of Specific Experience: A complete description of the relevant experience, including identification of the client, name of the project, roles and responsibilities of the individual, and types of services provided by the individual.

(No page restriction.)

4.3.4 Past Projects Completed

Describe in a narrative up to five (5) projects the Bidder has completed in the last two years that relate to the tasks listed in Model Contract Exhibit A – Scope of Work. (No more than 5 pages.)

4.3.5 Assumptions

Document any assumptions the Bidder is making about the SOW, the responsibilities of the Bidder and Covered California, and any other issues relevant to the Bidder's offer and ability to do the work for the proposed cost. (No more than 2 pages.)

5. REVIEW OF FINAL PROPOSALS FOR AWARD AND SELECTION CRITERIA

5.1 Written Responses to this RFP will be evaluated in phases

Phase 1- Administrative Requirements. The Evaluation Team will review responses to the Administrative Requirements as more fully described in 4.2 above.

Phase 2 – Technical Requirements. The Evaluation Team will review the narratives describing understanding and approach, corporate qualifications, project team qualifications, resumes and past projects completed.

5.2 Interviews

After Phase 2, interviews may be conducted with up to three (3) of the highest-rated Bidders. The number of Bidders interviewed and the decision whether to conduct interviews at all is within the sole discretion of Covered California. The specific staff to be interviewed will be agreed on by Covered California and the Bidder at the time the interview is scheduled.

5.3 Evaluation Criteria

Evidence of extensive previous experience in similar complex efforts will receive significant consideration in the evaluation process, as will demonstrated experience related to the SOW.

The table below lists the evaluation categories and the weight each will carry in the overall evaluation of each proposal:

Scoring Criteria	Weight	Points
Administrative Requirements	5%	50
Understanding and Approach	20%	200
Corporate Qualifications/Capacity	20%	200
Project Team Qualifications and Resumes	15%	150
Past Projects Completed	10%	100
Cost	30%	300
Totals	100%	1000

After application of the weighted evaluation criteria described above, the highest-rated proposal shall be recommended for selection. If two or more of the highest-rated responses are evaluated as substantially equal following the application of the weighted evaluation criteria described above, the contract may be awarded to the Bidder with the highest level of Small Business and Disabled Veteran Business Enterprise participation.

See section 6 of this RFP for an explanation of the application of Small Business and Disabled Veteran Business Enterprise preference points.

The Covered California Evaluation Team will evaluate Bidder proposals in these areas:

1. Administrative Requirements
2. Understanding and Approach
3. Corporate Qualifications/Capacity
4. Project Team Qualifications
5. Past Projects Completed

5.3.1.1 Understanding and Approach

Scoring of this factor shall be based on the Evaluation Team's assessment of the Bidder's understanding of, and insight into, the challenges, issues and risks faced by Covered California as depicted in Model Contract Exhibit A – Scope of Work, and the feasibility, efficiency and expected effectiveness of the approaches offered by the Bidder to provide assistance to Covered California. Evaluators will assign scores based on information contained in the Bidder's Understanding and Approach Narrative described above in section 4.3.1. The Evaluation Team will consider, in descending order of importance:

1. Quality of the Bidder's approach in addressing scope of responsibilities and activities, including how the Bidder will provide the flexibility to address issues as they arise, while maintaining a high level of quality in the approach;
2. Quality of the Bidder's approach to early identification of issues and risks, and how the approach will directly contribute to resolution and mitigation; and
3. Demonstrated understanding of the key characteristics of the project in general.

5.3.1.2 Corporate Qualifications/Capacity

Covered California seeks a vendor with significant corporate capacity to respond to Covered California needs for the duration of the contract, to support a high degree of qualified staff continuity, and to maintain a consistently high level of individual team member performance.

Corporate Description, Capacity and Background: Scoring of this factor will be based on the Evaluation Team's assessment of the Bidder's corporate resources, capacity and historical track record as they relate to the SOW. Evaluators will assign scores based on the Bidder's Corporate Qualifications narrative described above in section 4.3.2.

5.3.1.3 Project Team Qualifications

Covered California seeks a team of highly-qualified, senior staff to provide high-level project management support services as depicted in Model Contract Exhibit A – Scope of Work, combined with technical- or skill-based staff as described above in section 4.3.3. The following describes the evaluation and scoring of key staff qualifications.

Project Team Experience and Credentials

Scoring of this factor shall be based on the Evaluation Team's assessment of the breadth, depth and relevance of each proposed team member's experience and credentials. Evaluators will assign scores based on information contained in the Project Team Qualifications narrative and Resumes. The Evaluation Team will consider, in descending order of importance:

1. Demonstrated capacity to successfully assume responsibility comparable to that proposed for the team members in the project engagement;
2. Demonstrated capacity to perform at a high level in multiple areas of project management;
3. General breadth and extent of experience, as indicated by the number of projects and duration of individual involvement in each;
4. Relevance of experience as indicated by the scope and subject matter of project experience; and,
5. Relevance of education, training, and certifications.

5.3.1.4 Past Projects Completed

Scoring of this factor shall be based on the Evaluation Team's assessment of the breadth, depth and relevance of past projects to the requirements detailed in Model Contract Exhibit A – Scope of Work, as well as corporate resources and capacity as indicated by the characteristics of projects previously completed. Evaluators will assign scores based on information contained in the Past Projects Completed narrative. Scoring may also be based on Bidder's performance in past contracts with Covered California.

5.3.2 Scoring Criteria

Evaluators will assign technical points to all categories using these scoring criteria:

Rating	Relation to Requirements	Strengths	Deficiencies	Weaknesses	Likelihood of Success	Score
Excellent	Superior attainment of all requirements	Numerous and significant in key areas	None	Minor, if any	Very High	10.0
Good	Expected to meet all requirements	Some and significant in key areas	None	Minor, but are far outweighed by strengths	High	7.5
Acceptable	Capable of meeting all requirements	Some in non-key areas	Minor	Minor, but are outweighed by strengths	Fair	5.0
Marginal	May not be capable of meeting all requirements	None, or some that are outweighed by weaknesses or deficiencies	Significant	Significant	Poor	2.5
Unacceptable	Not likely to meet all requirements	None, or some that are far outweighed by weaknesses or deficiencies	Needs major revision	Needs major revision	None	0

5.4 Cost Score

Cost (300 points)

Each Bidder's cost score will be calculated using the ratio of the lowest cost proposal to the Bidder's cost, multiplied by the maximum number of cost points available (300 for this example), as shown in the calculation below:

$$\frac{\text{Lowest Total Cost Bid}}{\text{Bidder Total Cost}} \times \text{Total cost points available}$$

Example: Refer to the table below for an example of the cost score calculation process. **Cost figures in the example below explain the calculations and have no other significance.**

Cost Evaluation and Scoring Methodology (Example only)

Bidder	Grand Total Cost	Calculation	Cost Points Awarded
A	\$400,000	$\frac{\$300,000}{\$400,000} \times 300$	225
B	\$350,000	$\frac{\$300,000}{\$350,000} \times 300$	257
C	\$300,000	$\frac{\$300,000}{\$300,000} \times 300$	300

6. PREFERENCE PROGRAMS

6.1 Small Business (SB) Preference

This RFP does not require Bidders to meet a minimum SB participation percentage or goal. Participation in this program is optional. However, if Bidders use subcontractors, Bidders are encouraged to subcontract with SBs.

Section 14835, et seq. of the California Government Code requires a 5% preference be given to Bidders who qualify as a SB. The rules and regulations of this law, including the definition of a small business for the delivery of goods and services, are contained in California Code of Regulations, Title 2, section 1896, et seq. The SB preference is for California-based Certified SBs (CCSB) only.

A Bidder claiming the 5% preference must be certified by California as a small business or must commit to subcontract at least 25% of the net bid price with one or more CCSB. Certification must be obtained no later than 5:00 p.m. on the bid due date.

The incentive is applied in determining the lowest monetary bid or best value by reducing the qualified Bidder's price by the amount of the incentive as computed on the lowest price submitted by a responsive Bidder. This reduction is applied solely for evaluation purposes.

The preference is used only for computation purposes to determine the winning Bidder and does not alter the amounts of the resulting contract. A contract awarded on the basis of the preference is awarded to the small business, microbusiness or non-small business for the actual amount of the proposal.

If a Bidder is currently certified as a small business by the Department of General Services, Office of Small Business and DVBE Services, or any city, county, or federal certifying office, only a copy of that certification is required.

For more information on the requirements of, and how to obtain, SB and DVBE certification, visit the DGS website at <http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>.

During the contract term, the Contractor's SB compliance will be calculated on the completed work as verified by an audit of the Contractor's invoices and Contractor's payments to designated subcontractors.

If the Bidder or proposed subcontractor possesses a Small Business Certification and wishes to take advantage of the preference program, the Bidder must complete and submit the Bidder Declaration – Attachment 5 with its proposal package.

6.2 Disabled Veteran Business Enterprise (DVBE) – Declaration & Program Incentive

This RFP does not require Bidders to meet a minimum DVBE participation percentage or goal. Participation in this program is optional. However, Bidders are encouraged to subcontract with DVBEs.

Pursuant to Military and Veterans Code section 999.2, each State department has a participation goal of not less than 3% for disabled veteran business enterprises. These

goals apply to the overall dollar amount expended each year by the awarding department.

Covered California recognizes disabled veterans for their service by establishing a DVBE Participation Program. The program is intended to further veterans' participation in Covered California contracting, promote competition and encourage greater economic opportunity. Covered California determines whether to include DVBE participation requirements in specific solicitations based on the availability of contracting or subcontracting opportunities within the scope of services of the particular contract.

A Bidder may achieve participation by qualifying as a DVBE or by contracting with DVBE subcontractors. DVBEs must perform a commercially useful function, related to the bid specifications as required by Military and Veterans Code section 999(b)(5)(B).

In order to encourage DVBE participation, Covered California will apply a DVBE incentive as follows:

<u>Confirmed DVBE Participation</u>	<u>DVBE Incentive</u>
5% or More	5%
4% to 4.99%	4%
3% to 3.99%	3%
2% to 2.99%	2%
1% to 1.99%	1%

The incentive is applied in determining the lowest monetary bid or best value by reducing the qualified Bidder's price by the amount of the incentive as computed on the lowest price submitted by a responsive Bidder. This reduction is applied solely for evaluation purposes.

If the Bidder with the lowest monetary bid or best value, prior to application of the incentive, is a California-certified Small Business, only other certified small businesses will be eligible to receive the Small Business incentive bonus. If after application of incentives, two or more responsive bids tie for lowest monetary bid or best value, the contract may be awarded to the Bidder with the highest level of DVBE participation, if it is determined that the bid provides the Best Value to the State.

During the contract term, the Contractor's DVBE compliance will be calculated on the completed work as verified by an audit of the Contractor's invoices and Contractor's payments to designated subcontractors.

If the Bidder or proposed subcontractor possesses a Disabled Veteran Enterprise Certification and wishes to take advantage of the preference program, the Bidder must complete and submit the Bidder Declaration – Attachment 5, and Disabled Veteran Business Enterprise (DVBE) Declaration – Attachment 6 with its proposal package.

6.2.1 Commercially Useful Function

Only State of California, Office of Small Business and DVBE Services (OSDS), certified DVBEs who perform a Commercially Useful Function (CUF) relevant to this solicitation may be used to satisfy the DVBE participation goal. The criteria and definition for performing a CUF are below. When responding to this RFP, Bidders will need to verify each DVBE subcontractor's certification with OSDS to ensure DVBE eligibility.

CUF Definition. California Code of Regulations, Title 2, section 1896.61(l): The term "DVBE contractor, subcontractor or supplier" means any person or entity that satisfies the ownership (or management) and control requirements of section 1896.61(f); is certified in accordance with section 1896.70; and provides services or goods that contribute to the fulfillment of the contract requirements by performing CUF.

As defined in Military Veterans Code section 999, a person or an entity is deemed to perform a CUF if a person or entity does **all** of the following:

1. Is responsible for the execution of a distinct element of the work of the contract.
2. Carries out the obligation by actually performing, managing, or supervising the work involved.
3. Performs work that is normal for its business services and functions.
4. Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted under normal industry practices.

A contractor, subcontractor or supplier will not be considered to perform a CUF if the contractor's, subcontractor's or supplier's role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of DVBE participation.

6.3 Target Area Contract Preference Act (TACPA)

This RFP does not include TACPA preferences. However, during the RFP process, Bidders may apply for the preference. Bidders are encouraged to review the package carefully to ensure that their submittals conform to the program's preference requirements. See <http://www.pd.dgs.ca.gov/disputes/default.htm>.

If the Bidder wishes to take advantage of the TACPA preference program, the Bidder must complete and submit the Target Area Contract Preference Act Preference Request for Goods and Services Solicitations, Form STD 830 – Attachment 7 with its proposal package.

Attachments

1. Proposal Checklist
2. Federal debarment, suspension, ineligibility and voluntary exclusion certification
3. Form 700 Statement of Economic Interest Certification
4. Payee Data Record, Form STD 204
5. Bidder Declaration
6. Disabled Veteran Business Enterprise (DVBE) Declaration, if applicable
7. Target Area Contract Preference Act Preference Request for Goods and Services Solicitations STD 830

Model Contract with Exhibits

Standard 213

Exhibit A – Scope of Work

Exhibit B – Budget Provisions

Exhibit B, Attachment 1 - Cost Worksheet

Exhibit C – General Terms

Exhibit D – Special Terms and Conditions

Exhibit E – Additional Provisions

Exhibit E, Attachment 1 – Resumes

[Exhibit F – Privacy and Security Requirements](#)

EXHIBIT F (Standard Agreement)

PRIVACY AND SECURITY REQUIREMENTS

A. Purpose of Exhibit

1. This Exhibit sets forth the privacy and security requirements that apply to all Personally Identifiable Information (PII) that Contractor obtains, maintains, transmits, uses or discloses from the California Health Benefit Exchange (“Exchange” aka Covered California) pursuant to this Agreement.
2. The parties agree to all terms and conditions of this Exhibit in order to ensure the integrity, security, and confidentiality of the information exchanged pursuant to this Agreement, and to allow disclosure and use of such information only as permitted by law and only to the extent necessary to perform functions and activities pursuant to this Agreement.
3. This Exhibit establishes requirements in accordance with applicable federal and state privacy and security laws including, but not limited to, the Information Practices Act (California Civil Code section 1798 et seq.), the federal Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) (herein, the “Affordable Care Act”), and its implementing regulations at 45 C.F.R. Sections 155.260 and 155.270 (the “Exchange Privacy and Security Rules”) and, where applicable, the Health Insurance Portability and Accountability Act (42 U.S.C. section 1320d-d8) and the Health Information Technology for Economic and Clinical Health Act and their implementing regulations at 45 C.F.R. Parts 160 and 164 (collectively, “HIPAA”), as well as applicable privacy and security control protocols set forth within the Minimum Acceptable Risks For State-Based Exchanges document suite (“MARS-E”).

B. Definitions

The following definitions shall apply to this Exhibit:

1. Breach: Shall mean either: (i) the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to PII, whether physical, or electronic; or (ii) a reasonable belief that unauthorized acquisition of PII that compromises the security, confidentiality or integrity of the PII has occurred.

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2. Disclosure: The release, transfer, provision of access to, or divulging in any other manner of PII outside the entity holding the information.
3. Federal Tax Information or FTI: Any return or return information as defined under the Internal Revenue Service Code, 26 U.S.C. section 6103(b)(1) and (2), received from the IRS or secondary source, such as SSA, Federal Office of Child Support Enforcement or Bureau of Fiscal Service. FTI includes any information created by the recipient that is derived from return or return information. (IRS Pub. 1075, sec. 1.4.1)
4. Personal Information or PI: Information that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual. (California Civil Code sec. 1798.3)
5. Personally Identifiable Information or PII: Information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc. (OMB M-07-16.) PII includes Federal Tax Information (FTI), Personal Information (PI) and Protected Health Information (PHI).
6. Protected Health Information or PHI: Individually Identifiable Health Information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as defined in 45 C.F.R. section 160.103.
7. Security Incident: The act of violating an explicit or implied security policy, which includes attempts (either failed or successful) to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for the processing or storage of data; and changes to system hardware, firmware, or software characteristics without the owner's knowledge, instruction, or consent. Incidents include the loss of data through theft or device misplacement, loss or misplacement of hardcopy documents, and misrouting of mail, all of which may have the potential to put the data at risk of unauthorized access, use, disclosure, modification, or destruction. Adverse events such as floods, fires, electrical outages, and excessive heat are not considered incidents. (Computer Matching Agreement, Agreement No. 2013-11, p.5.)

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C. Applicable Laws

Contractor shall comply with any and all federal and state privacy and security laws, as well as applicable rules and regulations pertaining to the Exchange including, but not limited to, those arising under the federal Patient Protection and Affordable Care Act and its implementing regulations. To the extent a conflict arises between any laws or other requirements, Contractor agrees to comply with the applicable requirements imposing the more stringent privacy and security standards.

1. Exchange Privacy and Security Rules (45 C.F.R. sec. 155.260).
 - a. In accessing, collecting, using or disclosing PII in performing functions for the Exchange as authorized by this Agreement, Contractor shall only use or disclose PII to the minimum extent such information is necessary to perform such functions.
 - b. Contractor shall establish and implement privacy and security standards that are consistent with the principles of 45 C.F.R. section 155.260(a)(3) as set forth below in subsections (i) through (viii):
 - 1) Individual access. Individuals shall be provided with a simple and timely means to access and obtain their PII in a readable form and format;
 - 2) Correction. Individuals shall be provided with a timely means to dispute the accuracy or integrity of their PII and to have erroneous information corrected or to have a dispute documented if their requests are denied;
 - 3) Openness and transparency. Contractor shall be open and transparent regarding its policies, procedures, and technologies that directly affect individuals and/or their PII;
 - 4) Individual choice. Individuals shall be provided a reasonable opportunity and capability to make informed decisions about the collection, use, and disclosure of their PII;
 - 5) Collection, use and disclosure limitations. PII shall be created, collected, used, and/or disclosed only to the extent necessary to accomplish a specified purpose(s) and never to discriminate inappropriately;

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- 6) Data quality and integrity. Contractor will take reasonable steps to ensure that PII is complete, accurate, and up-to-date to the extent necessary for Contractor's intended purposes and has not been altered or destroyed in an unauthorized manner;
 - 7) Safeguards. PII will be protected with reasonable operational, administrative, technical, and physical safeguards to ensure its confidentiality, integrity, and availability and to prevent unauthorized or inappropriate access, use, or disclosure; and,
 - 8) Accountability. Contractor will use appropriate monitoring and other means and methods to assure accountability with these principles and to report and mitigate non-adherence and breaches.
2. California Information Practices Act. Contractor shall comply with the applicable privacy and security provisions of the Information Practices Act of 1977, California Civil Code section 1798 et seq. and shall provide assistance to the Exchange as may be reasonably necessary for the Exchange to comply with these provisions (Civil Code sec. 1798 et seq.).
3. Health Insurance Portability and Accountability Act ("HIPAA").
- a. Contractor expressly acknowledges and agrees that the Exchange is not a health care provider, a health care plan, or a health care clearinghouse. Accordingly, the parties mutually acknowledge and agree that, for purposes of this Agreement, the Exchange is not a Covered Entity as such term is specifically defined in HIPAA.
 - b. Contractor expressly acknowledges and agrees that where the Exchange performs a function required under applicable law pursuant to 45 C.F.R. section 155.200, it is not acting as a Business Associate of any other Covered Entity and Contractor is not acting as the Exchange's Business Associate, as such terms are specifically defined in HIPAA.
 - c. For certain programs related to the administration of the Medi-Cal Program, the Exchange has agreed to be the Business Associate of the Department of Health Care Services (DHCS). Therefore, to the extent that Contractor performs services related to the

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administration of the Medi-Cal program, contractor is the Exchange's subcontractor, and therefore, also a Business Associate as that term is specifically defined in HIPAA. Accordingly, if in performing functions pursuant to this Agreement Contractor accesses or uses PII that was provided to the Exchange by DHCS or for the purposes of the Medi-Cal program, Contractor shall comply with the applicable terms and conditions of HIPAA.

4. IRS Code section 6103 and Publication 1075. Per the Exchange Privacy and Security Rules (45 CFR 155.260 (a)(4)(iii), return information shall be kept confidential under 26 U.S. Code section 6103. As described by IRS publication 1075, conforming to the guidelines set forth in that publication meets the safeguard requirements of 26 U.S. Code section 6103(p)(4) for FTI.
5. Fingerprinting and Background Checks. (Government Code sec. 1043).
 - a. All individuals including, but not limited to, employees, contractors, or subcontractors who perform services under this agreement shall agree to criminal background checks in compliance with Government Code section 1043, and its implementing regulations set forth in California Code of Regulations, Title 10, Section 6456. Fees charged by the California Department of Justice for the cost of processing such requests shall be paid by Contractor but may be reimbursed by the Exchange upon the mutual, written agreement of the parties.
 - b. For any insurance agent licensed by the California Department of Insurance (CDI) the Exchange may obtain a criminal history check in accordance with Government Code section 1043 from CDI.
6. Privacy and Security Awareness Training (MARS-E).
 - a. Contractor shall ensure that any and all employees, agents, representatives or subcontractors who are provided access to PII have first been provided privacy and security awareness training.
 - b. Contractor shall likewise ensure that any and all such employees, agents, representatives or subcontractors certify in writing their completion of any such privacy and security awareness programs and, upon request, shall provide the Exchange with copies of the same.

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- c. Contractor shall retain the aforementioned certifications for a period of five (5) years and shall provide the copies upon request during this time.
- d. Notwithstanding the foregoing, Contractor shall be deemed to have complied with the above-referenced requirements through the completion of any certification program which includes privacy and security awareness training and is required for Contractor's participation in the Exchange.

D. Consumer Rights

1. Accounting of Disclosures

- a. Contractor shall assist the Exchange in responding to accounting requests by individuals that are made to the Exchange under the Information Practices Act (Civil Code sec. 1798.25-29) and if Protected Health Information is involved, pursuant to HIPAA, 45 C.F.R. section 164.528.
- b. The obligation of Contractor to provide an accounting of disclosures as set forth herein survives the expiration or termination of this Agreement with respect to accounting requests made after such expiration or termination.

2. Copies of Records Requests

Regardless of whether a request is made to the Exchange or to Contractor, Contractor shall respond to the request with respect to the record Contractor and its subcontractors maintain, if any, in a manner and time frame consistent with requirements specified in the Information Practices Act (Civil Code secs. 1798.30-1798.34) and if Protected Health Information is involved, with HIPAA (45 C.F.R sec. 164.524).

3. Requests to Amend Records

- a. Contractor shall make any amendments to Personally Identifiable information in a record that the Exchange directs or agrees to, whether at the request of the Exchange or an Individual.
- b. Regardless of whether a request to amend records is made to the Exchange or to Contractor, Contractor shall respond to the request with respect to the record Contractor and its subcontractors

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maintain in a manner and time frame consistent with requirements specified in the Information Practices Act (Civil Code sec. 1798.35) and if Protected Health Information is involved, with HIPAA (45 C.F.R. sec. 164.526).

4. Requests to Restrict Use and Disclosure of Personally Identifiable Information
 - a. Contractor shall reasonably comply with any requests to restrict the use and disclosure of Personally Identifiable Information.
 - b. If Protected Health Information is involved, Contractor shall respond to the request in a manner and time frame consistent with requirements specified in HIPAA (45 C.F.R. sec. 164.522).
5. Confidential Communications Request
 - a. Upon receipt of written notice, Contractor shall reasonably comply with any requests to utilize an alternate address, email, or telephone number when communicating with the individual.
 - b. If the request is denied, a written response shall be sent to the individual stating the reasons for denying the request.
 - c. If Protected Health Information is involved, Regardless of whether a request is made to the Exchange or to Contractor, Contractor shall respond to the request in a manner and time frame consistent with requirements specified in HIPAA (45 C.F.R. sec. 164.522(b)(1)).
6. In responding to any requests from individuals, Contractor shall verify the identity of the person making the request to ensure that the person is the individual who is the subject of the PII or has authority to make requests concerning the PII before responding to the request.
7. In the event any individual submits any of these requests directly from Contractor, Contractor shall within five (5) calendar days forward such request to the Exchange.

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E. Security Controls and Safeguards

1. Safeguards: At a minimum, contractor shall establish and implement operational, technical, administrative and physical safeguards that are consistent with any applicable laws to ensure
 - a. The confidentiality, integrity, and availability of personally identifiable information created, collected, used, and/or disclosed by the Exchange;
 - b. Personally identifiable information is only used by or disclosed to those authorized to receive or view it;
 - c. Return information, as such term is defined by section 6103(b)(2) of the Code, is kept confidential under section 6103 of the Code;
 - d. Personally identifiable information is protected against any reasonably anticipated threats or hazards to the confidentiality, integrity, and availability of such information;
 - e. Personally identifiable information is protected against any reasonably anticipated uses or disclosures of such information that are not permitted or required by law; and
 - f. Personally identifiable information is securely destroyed or disposed of in an appropriate and reasonable manner and in accordance with retention schedules.
2. Encryption: Contractor shall encrypt all PII that is in motion or at rest, including but not limited to data on portable media devices, using commercially reasonable means, consistent with applicable Federal and State laws, regulations and agency guidance, including but not limited to the U.S. Department of Health and Human Services guidance specifying the technologies and methodologies that render PII unusable, unreadable, or indecipherable to unauthorized individuals for purposes of the breach notification requirements or issued by the National Institute for Standards and Technology (“NIST”) concerning the protection of identifiable data such as PII. Data centers shall be encrypted or shall otherwise comply with industry data security best practices.
3. Hardware: Contractor shall ensure that any and all hardware, including but not limited to personal computers, laptops, jump-drives, smart phones or other devices upon which PII is stored, is secured, password-protected

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(Standard Agreement)**

and only accessible by Contractor or Contractor's agents, employees or sub-contractors in accordance with the terms of this Exhibit. Contractor shall at all times remove and permanently delete any and all PII before any such hardware is transferred or sold to a third-party or is otherwise subject to any change in ownership or control.

4. Log-In Credentials: Contractor shall at all times ensure that each individual user of any Exchange computer system through which PII is accessed maintains his or her own unique user-id and password. Contractor shall strictly refrain from sharing individual log-in credentials and shall at all times assume responsibility for ensuring that the log-in credentials of any former employees, sub-contractors, agents or other representatives who are no longer subject to this Agreement are deactivated or otherwise changed to prevent unauthorized access by any such individuals.
5. Contractor shall update these safeguards as appropriate and as requested by the Exchange.

F. Policies and Procedures:

1. Contractor shall implement and maintain written policies and procedures to ensure the privacy and security of PII stored, maintained, or accessed in compliance with this agreement and any applicable laws. Such policies shall address
 - a. Implementation of consumer rights as required by this Exhibit;
 - b. Reasonable safeguards as required by this Exhibit;
 - c. Monitoring, periodically assessing, and updating security controls and related system risks to ensure the continued effectiveness of those controls; and
 - d. Training employees, contractors, and subcontractors.
2. Upon request, Contractor shall provide the Exchange with a written policies and procedures adopted by Contractor to meet its obligations under this Section.

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G. Subcontractors

1. Contractor shall be bound by and be responsible for the acts and omissions of its subcontractors, agents or vendors in the exchange of data with the Exchange. Contractor shall take reasonable steps to ensure compliance with the terms of this Agreement by its subcontractors, agents and vendors.
2. Contractor agrees to enter into written contracts with its agents and contractors (collectively, "subcontractors") that obligate Contractor's subcontractors to abide by the same privacy and security standards and obligations that Contractor has agreed to in this agreement.
3. Contractor represents and agrees that it shall only request that the Exchange transmit data to subcontractors with whom it has such agreements and only to the extent such information is necessary to carry out the purposes authorized by this Agreement.
4. Upon request, Contractor shall provide the Exchange with a copy of any written agreement or contract entered into by Contractor and its subcontractors to meet the obligations of Contractor under this Exhibit.

H. Breaches and Security Incidents

1. Contractor shall immediately report to the Exchange Privacy Officer at PrivacyOfficer@covered.ca.gov any actual or suspected Breaches or Security Incidents involving PII created or received under this Agreement. Contractor's report shall contain the following information to the extent applicable and known at that time:
 - a. A brief description of what happened including the date of the incident and the date of the discovery of the incident;
 - b. The names or identification numbers of the individuals whose PII has been, or is reasonably believed to have been accessed, acquired, used or disclosed;
 - c. A description of the types of PII that were involved in the incident, as applicable;
 - d. Information regarding any information system intrusion and any systems potentially compromised;

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- e. A brief description of Contractor's investigation and mitigation plan; and
 - f. Any other information necessary for the Exchange to conduct an investigation and include in notifications to the individual(s) or relevant regulatory authorities under applicable privacy and security requirements.
2. Upon completion of the initial report, contractor shall immediately commence an investigation in accordance with applicable law to:
 - a. Determine the scope of the incident;
 - b. Mitigate harm that may result from the incident; and
 - c. Restore the security of the system to prevent any further harm or incidents.
3. Contractor shall cooperate with the Exchange in investigating the actual or suspected incident and in meeting the Exchange's obligations, if any, under applicable laws.
4. Contractor shall mitigate to the extent practicable any harmful effect of any Incident that is known or reasonably discoverable to Contractor.
5. After conducting its investigation, and within fifteen (15) calendar days, unless an extension is granted by the Exchange, Contractor shall file a complete report with the information listed above in subsection (1), if available. Contractor shall make all reasonable efforts to obtain all relevant information and shall provide an explanation if any information cannot be obtained. The complete report shall include a corrective action plan that describes the steps to be taken to prevent any future reoccurrence of the incident.
6. Contractor shall cooperate with the Exchange in developing content for any public statements and shall not give any public statements without the express written permission of the Exchange.
7. If a Breach requires notifications and reporting under applicable laws, and the cause of the Breach is attributable to Contractor, its agents or subcontractors, Contractor shall:

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- a. Be fully responsible for providing breach notifications and reporting as required under applicable laws;
 - b. Pay any costs of such Breach notifications as well as any costs or damages associated with the incident; and
 - c. Should the Exchange in its sole discretion determine that credit monitoring is an appropriate remedy, arrange for and bear the reasonable, out-of-pocket cost of providing to each such affected individual one (1) year of credit monitoring services from a nationally recognized supplier of such services.
8. If Contractor determines that an impermissible acquisition, use, or disclosure of PII does not require breach notifications or reporting, it shall document its assessment and provide such documentation to the Exchange within one week of its completion. Notwithstanding the foregoing, the Exchange reserves the right to reject Contractor's assessment and direct Contractor to treat the incident as a Breach.

I. Right to Inspect

The Exchange may inspect the facilities, systems, books, and records of Contractor to monitor compliance with this Exhibit at any time. Contractor shall promptly remedy any violation reported to it by the Exchange and shall certify the same to the Exchange Privacy Officer in writing. The fact that the Exchange inspects, fails to inspect, fails to detect violations of this Exhibit or detects but fails to notify Contractor of the violation or require remediation is not a waiver of the Exchange's rights under this Agreement and this Exhibit.

J. Indemnification

Contractor shall indemnify, hold harmless, and defend the Exchange from and against any and all costs (including mailing, labor, administrative costs, vendor charges, and any other costs the Exchange determines to be reasonable), losses, penalties, fines, and liabilities arising from or due to Contractor's failure to comply with the requirements of this Exhibit, including a breach or other non-permitted use or disclosure of PII by Contractor or its subcontractors or agents, including without limitation. Such indemnification shall be conditioned upon the Exchange giving notice of any claims to Contractor after discovery thereof. If Contractor should publish or disclose PII to others, the Exchange shall be entitled to injunctive relief or any other remedies to which it is entitled under law or equity, without posting a bond.

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K. Termination of Agreement

1. If Contractor breaches its obligations under this Exhibit as determined by the Exchange, the Exchange may, at its option:
 - a. Require Contractor to submit to a plan of monitoring and reporting, as the Exchange may deem necessary to maintain compliance with this Agreement;
 - b. Provide Contractor with an opportunity to cure the breach; or
 - c. After giving Contractor an opportunity to cure the breach, or upon breach of a material term of this Exhibit, terminate this Agreement for Cause pursuant to Exhibit C.

A failure of the Exchange to exercise any of these options shall not constitute a waiver of its rights under this section.

2. Upon completion of this Agreement, or upon termination of this Agreement, at the Exchange's direction Contractor shall either return all PII to the Exchange, or shall destroy all PII in a manner consistent with applicable State and Federal laws, regulations, and agency guidance on the destruction of PII. If return or destruction of PII is not feasible, Contractor shall explain in writing to the Exchange's Chief Privacy Officer why return or destruction is not feasible. The obligations of Contractor under this Agreement to protect PII and to limit its use or disclosure shall continue and shall survive until all PII is either returned to the Exchange or destroyed.