

**California Health Benefit Exchange
(Exchange)
RFP 2016-01: Open Enrollment Call Center Project Manager**

August 1, 2016
Addendum #1

Summary of Changes

Attachment 2, Exhibit A, Scope of Work – replaced in its entirety.

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213 (Rev 06/03)

AGREEMENT NUMBER
REGISTRATION NUMBER

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

STATE AGENCY'S NAME

California Health Benefit Exchange

CONTRACTOR'S NAME

2. The term of this Agreement is: **TBD** through **TBD**



3. The maximum amount of this Agreement is: **\$ [To be left blank until contract award]** dollars and no cents

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

Exhibit A – Scope of Work	XX Pages
Exhibit B – Budget Detail and Payment Provisions	XX Pages
Exhibit B, Attachment 1 – Cost Worksheet	XX Page(s)
Exhibit C – General Terms and Conditions	XX Pages
Exhibit D – Special Terms and Conditions	XX Pages
Exhibit E – Additional Provisions	XX Pages
Exhibit F – Travel Reimbursement	XX Pages

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

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

CONTRACTOR		California Department of General Services Use Only
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
		
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		
STATE OF CALIFORNIA		
AGENCY NAME		
California Health Benefit Exchange		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
		
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		
1601 Exposition Blvd Sacramento, CA 95815		

Exempt per:
**Government Code
 Section 100505**

**Exhibit A
(Standard Agreement)**

SCOPE OF WORK

A. Purpose

The purpose of this RFP is for Covered California to solicit proposals from qualified Bidders to provide a highly experienced project manager to in support Covered California's Surge Call Center. The Project Manager will be responsible to oversee all activities related to Covered California's Surge Call Center including but not limited to consulting with Covered California's selection team on vendor selection, providing a project plan detailing all planning necessary to stand up a call center, overseeing staffing plans, training plans and all the commensurate daily activities that support a call center during the duration of the contract. Project Manage will be required to manage and oversee other call center activities including manual processing, quality management, work force management and other activities necessary to ensure consumer access to Covered California health plans during critical peak times including renewal, open enrollment and special enrollment terms. Project Manager will also oversee other non-peak time activities at the direction of the Director of Covered California's call centers.

B. Background Clearance

If the Contractor must access any confidential information, this provision must be completed prior to implementing any portion of this scope of work.

Prior to accessing any confidential information, personal identifying information, personal health information, federal tax information, or financial information contained in the information systems and devices of the Exchange, or any other information as required by federal and State law or guidance, all staff, including employees, contract or subcontract personnel, vendors or volunteers who perform services under this Agreement must comply with the criminal background check requirements set forth in Government Code section 1043, and its implementing regulations set forth in California Code of Regulations, Title 10, section 6456. Contractor shall bear all costs associated with obtaining clearance for each said employee.

C. General Scope or Tasks

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.

Exhibit A (Standard Agreement)

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.

E. Reporting Headquarters Location

The Contractor is required to perform all services under this Agreement on site at the Exchange, unless directed otherwise by the project representative listed in this Exhibit. The Exchange office is located at 1601 Exposition Boulevard, Sacramento, California, 95815. Travel and expenses for reporting to this headquarters location shall not be reimbursed.

F. Contract Deliverables

1. The Contractor understands that all recommendations and contract deliverables must comply with the Patient Protection and Affordable Care Act of 2010, as well as sections 15438, 15439, and 100501 through 100521 of the Government Code; 1346.2 and 1366.6 of the Health and Safety Code; 10112.3 and 10112.4 of the Insurance Code.
2. The Contractor shall provide all deliverables within the timeframe specified and required by the State.
3. The Contractor understands and acknowledges that all deliverables must be reviewed, approved and accepted by the State.
4. The Contractor understands that any State-requested revisions to any deliverable shall be incorporated by the Contractor within seven (7) calendar days from the date in which the State provided its feedback, unless a different timeframe is required and specified by the State.
5. In the event the State requires additional refinements and modifications for any deliverable which occurs after that deliverable has been previously accepted by the State, the Contractor shall be required to make the additional revisions until the revised deliverable is accepted and approved by the State.
6. The Contractor shall be paid for services rendered under this Agreement in accordance with Exhibit B, Budget Detail and Payment Provisions.

**Exhibit A
(Standard Agreement)**

G. Project Representatives

The representatives for this project, during the term of this Agreement, shall be:

State Program Representative	Contractor Representative:
(Representative's Name) California Health Benefit Exchange 1601 Exposition Blvd. Sacramento, CA 95815 (916) XXX-XXXX T (916) XXX-XXXX F (Email Address)	(Representative's Name) (Contractor's Name) (Address) (City, State and Zip) (916) XXX-XXXX T (916) XXX-XXXX F (Email Address)

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

A. Invoicing and Payment

1. The maximum amount payable under this Agreement shall not exceed **(Enter Contract Total)**.
2. **(This language changes depending on how the Contractor will be reimbursed for services, e.g., Flat Fee or Hourly Rate.)** For services satisfactorily rendered, and upon receipt and approval of the invoice(s), the State agrees to pay the Contractor in arrears for said services at a rate of \$

No overtime shall be reimbursed under this Agreement.

The Contractor shall submit an invoice supported by a brief progress report which summarizes both completed tasks and work in progress toward all contract deliverables.

3. Invoices shall include the Agreement Number and CFDA Code 93.525 and shall be submitted in triplicate not more frequently than monthly in arrears to:

California Health Benefit Exchange
Attn: Accounting
1601 Exposition Blvd.
Sacramento, CA 95815

Invoices shall:

- a. Be prepared on agency/company letterhead. If invoices are not on agency/company 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 Agreement.
- b. Bear the Contractor's name as shown on the Agreement.
- c. Identify the billing and/or performance period covered by the invoice.

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- d. Itemize the costs for the billing period in the same or greater level of detail as indicated in this Agreement. Only those costs and/or cost categories expressly identified as allowable in this agreement may be reimbursed.

Any invoices submitted without the above-referenced information may be returned to the Contractor for further re-processing.

B. Federal Funding and Qualified Health Plan (QHP) Assessment Contingency Clause

If the receipt of federal grant funds and the collection of fees assessed from QHPs are collectively not sufficient to provide the funds for this program, the Exchange shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to the Contractor to reflect the reduced amount.

C. 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.

D. Review

The California Health Benefit Exchange reserves the right to review service levels and billing procedures as they impact charges against this Agreement.

E. Final Billing

Invoices for services must be received by the State within 30 days following each state fiscal, year, federal grant period (12/31/2016), or 30 days following the end of the contract term, whichever comes first. The final invoice must include the statement "Final Billing." The final invoice must include a completed Form 700 Leaving Office Statement of Economic Interest properly completed for every Designated Filer in the Contractor's group. The final invoice will not be considered complete or accurate unless it is submitted with a Form 700 Leaving Office Statement of Economic Interest for Designated Filers. Further, a final invoice submitted without all of the required Form 700 filings will automatically be considered a "disputed" invoice. Disputed invoices are not subject to Government Code Section 927 prompt payment requirements until the dispute is resolved.

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EXHIBIT B
(Standard Agreement)

F. Nonresident Tax Withholdings

Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have seven percent of their total payments withheld for state income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.

**ATTACHMENT 2-D
Cost Worksheet**

Contractor Name: _____

Complete the Cost Worksheet provided below.

Task #	Deliverable Description	Total Cost
		\$

Total Contract Amount:

Attachment 2-E
EXHIBIT C
(Standard Agreement)

GENERAL TERMS AND CONDITIONS

A. APPROVAL:

This Agreement is of no force or effect until signed by both parties.

B. AMENDMENT:

This Agreement may be amended by mutual consent of the parties. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

C. 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.

D. AUDIT:

Contractor agrees that the awarding department ("the State") and the Bureau of State Audits, Health and Human Services, or their designated representatives, shall have the right to review and to copy any records and supporting documentation directly pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of ten (10) 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 the same right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (45 CFR Section 155.1210, GC 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896).

E. INDEMNIFICATION:

Contractor agrees to indemnify, defend and save harmless the State, its officers, trustees, agents and employees from any and all claims, losses, costs, liabilities, damages or deficiencies, including interest, penalties and attorneys' fees, which:

- (i) Arise out of, are due to, or are alleged to arise out of or be due to, a breach by the Contractor of any of its representations, warranties, covenants or other obligations contained in this Agreement, or
- (ii) Are caused by or result from or are alleged to arise out of or result from, the Contractor's acts or omissions constituting bad faith, willful misfeasance, negligence or reckless disregard of its duties under this Agreement, or

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- (iii) Accrue or result, or are alleged to accrue or result, 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, or
- (iv) Arise out of, are due to, or are alleged to arise out of or be due to, any claim or allegation of infringement, misappropriation or violation of any patent, copyright, trademark, trade secret, domain name or other intellectual property right comprising or involving any of the Subject Inventions, Prior Inventions or other Inventions provided in any way by Contractor and used, reproduced or otherwise exploited by the State in connection with any of the Agreement Programs or any Turnover thereof; or
- (v) Arise out of, are due to or are alleged to arise out of or be due to, any violation of HIPAA, the HIPAA Regulations, HITECH Act, other security or privacy laws, or any other laws, by Contractor or any subcontractor or agent under Contractor's control.

If and to the extent that the Contractor has knowledge of a claim that it believes may develop into an action that would be subject to this Agreement, the Contractor shall promptly notify the State of the claim.

Right to Tender or Undertake Defense. If the State is named a party in any judicial, administrative, or other proceeding arising out of or in connection with a breach of this Agreement or a matter for which the Contractor is obligated to indemnify the State under this Agreement, then the State will have the option at any time to either (i) tender its defense to Contractor, in which case Contractor will provide qualified attorneys, consultants, and other appropriate professionals to represent the State's interests at Contractor's expense, or (ii) undertake its own defense, choosing the attorneys, consultants, and other appropriate professionals to represent its interests, in which case Contractor will be responsible for and shall pay reasonable fees and expenses of such attorneys, consultants, and other appropriate professionals. If the State elects option (ii) above, the Contractor shall be afforded a reasonable opportunity to participate in the defense and attend the legal proceedings at its own expense; however, the State shall have sole control of the defense.

Right to Control Resolution. Notwithstanding that the State may have tendered its defense to the Contractor, neither party shall settle, compromise or resolve any claims, causes of action, liabilities or damages against the State without the consent of the other party, which consent shall not be unreasonably withheld. Any such resolution will not relieve the Contractor of its obligation to indemnify the State.

F. DISPUTES:

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Disputes shall be administered in accordance with Paragraph A of Exhibit D of this Agreement. During any dispute, Contractor shall continue with the responsibilities under this Agreement, unless directed otherwise by the State in writing.

G. 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, unless otherwise agreed to by the State in writing. Such right of termination shall be without prejudice to any other remedies available to the State. Upon receipt of any notice terminating this Agreement, the Contractor shall immediately discontinue all activities affected, unless the notice directs otherwise, and the State may proceed with the work in any manner deemed proper by the State. In such event, the State shall pay the Contractor only the reasonable value of the services rendered, and all costs to the State shall be deducted from any sum due the Contractor. The State may, at its sole discretion, offer an opportunity to cure any breach prior to terminating for default.

H. 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 except for purposes of Civil Code Section 1798.24.

I. 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 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, Section 12209. Contractor may certify that the product contains zero recycled content.

J. NON-DISCRIMINATION CLAUSE:

During the performance of this Agreement, Contractor and its subcontractors, as well as their agents and employees, shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including health impairments related to or associated with a diagnosis of cancer for which a person has been rehabilitated or cured), age (over 40), marital status, and use of family and medical

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care leave pursuant to state or federal law. Contractor and subcontractors, as well as their agents and employees, shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Contractor and subcontractors, as well as their agents and employees, 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 (Title 2, California Code of Regulations, 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.

K. CONTRACTOR CERTIFICATION CLAUSES:

1. STATEMENT OF COMPLIANCE:

Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 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.

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- 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 State determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 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 (2)-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. (PCC 10296) (Not applicable to public entities.)

4. DOING BUSINESS WITH THE STATE OF CALIFORNIA:

a. CONFLICT OF INTEREST:

Contractor acknowledges the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement the Contractor shall contact the State immediately for clarification.

- 1) Current State Employees (PCC 10410):
 - a) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
 - b) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
- 2) Former State Employees (PCC 10411):

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- a) For the two (2)-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transaction, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- b) For the twelve (12)-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the twelve (12)-month period prior to his or her leaving state service.
- 3) If Contractor violates any provisions of the above paragraphs, such action by Contractor shall render this Agreement void. (PCC 10420).
- 4) 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. (PCC 10430 (e)).

b. **LABOR CODE/WORKERS' COMPENSATION:**

Contractor acknowledges the provisions of law 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 agrees to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700.)

c. **AMERICANS WITH DISABILITIES ACT:**

Contractor certifies that it complies with the Americans with Disabilities Act (ADA) of 1990, as amended, 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.)

d. **CONTRACTOR NAME CHANGE:**

Contractor acknowledges that 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.

e. **CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:**

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- 1) Contractor acknowledges that, when agreements are to be performed in the state by corporations, the State will verify that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
- 2) "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.
- 3) 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.

f. **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.

g. **AIR OR WATER POLLUTION VIOLATION:**

Contractor acknowledges that, 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 or provisions of federal law relating to air or water pollution.

h. **PAYEE DATA RECORD FORM STD 204:**

Contractor acknowledges that this form must be completed by all contractors that are not another state agency or other government entity.

L. TIMELINESS:

Time is of the essence in this Agreement.

M. COMPENSATION:

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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.

N. GOVERNING LAW:

This Agreement shall be administered, construed, and enforced according to the laws of the State of California (without regard to any conflict of law provisions) to the extent such laws have not been preempted by applicable federal law. Any suit brought hereunder (including any action to compel arbitration or to enforce any award or judgment rendered thereby) shall be brought in the state or federal courts sitting in Sacramento, California, the parties hereby waiving any claim or defense that such forum is not convenient or proper. Each party agrees that any such court shall have in personam jurisdiction over it and consents to service of process in any manner authorized by California law.

O. 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.

1. The Government Code Chapter on Antitrust claims contains the following definitions:
 - a. "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.
 - b. "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
2. 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.
3. 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

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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.

4. 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.

P. CHILD SUPPORT COMPLIANCE ACT:

In accordance with the Child Support Compliance Act,

1. The Contractor acknowledges 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
2. 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.

Q. UNENFORCEABLE PROVISION:

Should one or more provisions of this contract be held by any court to be invalid, void or unenforceable, the remaining shall nevertheless remain and continue in full force and effect.

R. UNION ORGANIZING:

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:

1. Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
2. No state funds received under this agreement will be used to assist, promote or deter union organizing.

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3. 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.
4. 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.
5. Contractor will be liable to the State for the amount of any funds expended in violation of the requirements of Government.

S. DOMESTIC PARTNERS:

Notwithstanding any other provision of law, no state agency may enter into any contract for the acquisition of goods or services in the amount of one hundred thousand dollars (\$100,000) or more with a contractor who, in the provision of benefits, discriminates between employees with spouses and employees with domestic partners, or discriminates between employees with spouses or domestic partners of a different sex and employees with spouses or domestic partners of the same sex, or discriminates between same-sex and different-sex domestic partners of employees or between same-sex and different-sex spouses of employees.

T. LEGAL SERVICES REQUIREMENTS:

For all contracts that provide legal services:

1. The contractor shall agree to adhere to legal cost and billing guidelines designated by the state agency.
2. The contractor shall adhere to litigation plans designated by the state agency.
3. The contractor shall adhere to case phasing of activities designated by the state agency.
4. The contractor shall submit and adhere to legal budgets as designated by the state agency.
5. The contractor shall maintain legal malpractice insurance in an amount not less than the amount designated by the state agency.
6. The contractor shall submit to legal bill audits and law firm audits if requested by the state agency. The audits may be conducted by employees or designees of the state agency or by any legal cost control providers retained by the state agency for that purpose.

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U. MINIMUM PRO-BONO CERTIFICATION:

For all contracts over \$50,000 that provide legal services, the 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 less 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.

V. PRIORITY HIRING CONSIDERATIONS FOR RECIPIENTS OF AID:

If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353. This requirement shall not interfere with or require a violation of a collective bargaining agreement, a federal affirmative action obligation for hiring disabled veterans of the Vietnam era, or nondiscrimination compliance laws of California and does not require the employment of unqualified recipients of aid.

Attachment 2-F
EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

A. Dispute Provisions

1. The parties shall deal in good faith and attempt to resolve disputes informally. If the dispute persists, Contractor shall submit a written dispute notice to the Exchange Project Representative within 15 calendar days after the date of the action causing the dispute. The written dispute notice shall contain the following information:
 - a. the decision or issue under dispute;
 - b. the reason(s) Contractor believes the decision or position taken by the Exchange is in error (if applicable, reference pertinent contract provisions);
 - c. identification of all documents and substance of all oral communication which support Contractor's position; and
 - d. the dollar amount in dispute, if applicable.
2. The Exchange Project Representative, within 15 calendar days after receipt of the dispute notice, shall issue a written decision regarding the dispute. The written decision shall include the following information:
 - a. a description of the dispute;
 - b. a reference to pertinent contract provisions, if applicable;
 - c. a statement of the factual areas of agreement or disagreement; and
 - d. a statement of the representative's decision with supporting rationale
3. If the Contractor is not satisfied with the decision of the Exchange Project Representative, the Contractor may, within 15 calendar days of the Exchange Project Representative's decision, submit a written appeal to the Exchange Executive Director. The Executive Director shall then issue a final decision on the dispute within 30 days after receiving Contractor's written appeal. If the Executive Director fails to render a final decision within 30 days after receipt of Contractor's written appeal, it shall be deemed a final decision adverse to the Contractor's contentions. The Executive Director's final decision shall be conclusive and binding regarding the dispute unless Contractor commences an action in a court of competent jurisdiction to contest such decision within 30 days following the date of the final decision.
4. Pending the final resolution of any dispute arising under, related to or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of Goods or providing of services in accordance with the Exchange's instructions. Contractor's failure to diligently proceed in accordance with the Exchange's instructions shall be considered a material breach of this Contract.

B. Termination Without Cause

This Agreement may be terminated without cause by the State upon 30 days' written notice to the contractor.

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C. Debarment and Suspension

For federally funded agreements, Contractor certifies that to the best of his/her knowledge and belief he/she and their principals or affiliates or any sub-contractor utilized under this agreement, are not debarred or suspended from federal financial assistance programs and activities nor proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. The Contractor also certifies that it or any of its sub-contractors are not listed on the Excluded Parties Listing System (<http://www.sam.gov>) (Executive Order 12549, 7 CFR Part 3017, 45 CFR Part 76, and 44 CFR Part 17).

D. Certification Regarding Lobbying

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds.

1. For Agreements with Contractors who are State entities not under the authority of the Governor, or cities, private firms or agencies which are receiving in excess of \$100,000 in federal funds from the California Health Benefit Exchange to perform services. By signing this Agreement the Contractor certifies that to the best of his or her knowledge and belief, that:
 - a. 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 any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into of a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
 - b. 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, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal Grant or agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
 - c. The Contractor shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.
2. This certification is a prerequisite for making or entering into this transaction and is imposed by Section 1352, Title 31, U. S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of no less than \$10,000 and not more than \$100,000 for each such failure.

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E. Computer Software Copyrights

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 contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.

F. A-133 Audit

To the extent applicable, pursuant to Office of Management and Budget (OMB) Circular A-133 §____.200 "Audit Requirements", non-federal entities that expend \$500,000 or more in a year in Federal awards from all sources combined shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133. All OMB Circular A-133 audit reports shall meet the reporting requirements established in OMB §____.320 "Report Submission" and a copy shall be forwarded to the California Health Benefit Exchange.

G. Executive Compensation Reporting

To the extent applicable, pursuant to 2 C.F.R. Part 170, certain subrecipients of federal awards that in the previous fiscal year received 80% or more of their annual gross revenues from Federal procurement contracts and subcontracts and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. 170.320 (and subawards); and \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act (and subawards); and the public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or Section 6104 of the Internal Revenue Code of 1986, the subrecipient must report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year.

H. Subcontractors

(Applicable to agreements in which the Contractor subcontracts out a portion of the work) Nothing contained in this Agreement or otherwise shall create any contractual relationship between the Exchange and any subcontractors, and no subcontractor shall relieve the Contractor of its responsibilities and obligations hereunder. The Contractor agrees to be fully responsible to the Exchange for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the obligation of the Exchange to make payments to the Contractor. As a result, the Exchange shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

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I. Insurance Requirements

When Contractor submits a signed contract to the State, Contractor shall furnish to the State a certificate of insurance, stating that there is:

1. General liability insurance presently in effect for the Contractor of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined; and
2. Automobile liability, including non-owned auto liability, of not less than \$1,000,000 per occurrence for volunteers and paid employees providing services supported by this Agreement. The certificate of insurance will include provisions a, b, and c, in their entirety:
 - a. That the insurer will not cancel the insured's coverage without 30 days' prior written notice to the State.
 - b. That the State of California, its officers, agents, employees, and servants are included as additional insured, but only insofar as the operations under this contract are concerned.
 - c. That the State will not be responsible for any premiums or assessment on the policy.

Contractor agrees that the general and automobile liability insurance herein provided for shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, Contractor agrees to provide at least 30 days' prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract, or for a period of not less than one year. New certificates of insurance are subject to the approval of the Exchange, and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, the State may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

The Contractor shall require its subcontractors/vendors under this Agreement, other than units of local government which are similarly self-insured, to maintain adequate insurance coverage for general liability and automobile liability including non-owned auto liability, and further, the Contractor shall require all of its subcontractors/vendors to hold the Contractor and the Exchange harmless. The subcontractors'/vendors' Certificate of Insurance shall also have the Contractor, not the State, as the certificate holder and additional insured. The Contractor shall maintain certificates of insurance for all its subcontractors/vendors.

The State will not provide for nor compensate Contractor for any insurance premiums or costs for any type or amount of insurance.

By signing this Agreement, the Contractor hereby warrants that it carries Workers' Compensation Insurance on all of its employees who will be engaged in the

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performance of this Agreement. If staff provided by the Contractor is defined as independent contractors, this clause does not apply.

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ADDITIONAL PROVISIONS

A. Intellectual Property Rights

1. All deliverables as defined in the Scope of Work originated or prepared by the Contractor pursuant to this agreement including papers, reports, charts, and other documentation, but not including Contractor's administrative communications and records relating to this Agreement, shall upon delivery and acceptance by the California Health Benefit Exchange become the exclusive property of the California Health Benefit Exchange and may be copyrighted by the California Health Benefit Exchange.
2. All inventions, discoveries or improvements of the techniques or programs or materials developed pursuant to this agreement shall be the property of California Health Benefit Exchange.
3. This Agreement shall not preclude the Contractor from developing materials outside this Agreement, which are competitive, irrespective of their similarity to materials which might be delivered to the California Health Benefit Exchange pursuant to this Agreement. All preexisting intellectual property, copyrights, trademarks and products shall be the sole property of the Contractor.

B. Confidentiality

The contractor agrees to protect the personal information of all individuals by following applicable federal and state privacy and security requirements.

All financial, statistical, personal, technical, and other data and information related to the California Health Benefit Exchange's operations that are not publicly available and that become available to Contractor shall be protected during or after its relationship with the California Health Benefit Exchange by Contractor from unauthorized use and disclosure. Contractor agrees that Contractor shall not use any Confidential Information for any purpose other than carrying out the provisions of the Agreement.

Confidential Information includes, but is not limited to, all proprietary information of the California Health Benefit Exchange including without limitation: the Deliverables; trade secrets; know-how; concepts; methods; techniques; designs; drawings; specifications; computer programs, including the State's software; support materials; information regarding the State's business operations and plans; client, customer, or supplier lists; pricing information; marketing plans or information; or other records concerning the State's finances, contracts, services, or personnel.

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At the conclusion of its relationship with the California Health Benefit Exchange, Contractor shall return any and all records or copies of records relating to the California Health Benefit Exchange, or its business, or its Confidential Information. Contractor shall take such steps as may be reasonably necessary to prevent disclosure of Confidential Information to others and shall not disclose Confidential Information to others without the prior written consent of the California Health Benefit Exchange. Contractor agrees that Confidential Information disclosed to it under the terms of this Agreement may be disclosed only to its employees or agents who have a need to know such Confidential Information.

This Agreement not to disclose Confidential Information will continue to apply after termination of this Agreement, and until such time as the Confidential Information becomes public knowledge through no fault of its own. Contractor will report to the California Health Benefit Exchange any and all unauthorized disclosures of Confidential Information. Contractor acknowledges that any publication or disclosure of Confidential Information to others may cause immediate and irreparable harm to the California Health Benefit Exchange, and if Contractor should publish or disclose Confidential Information to others, California Health Benefit Exchange shall be entitled to injunctive relief or any other remedies to which it is entitled under law or equity, without posting a bond.

C. Resumes

Resumes of personnel the Contractor will use to provide services under this Agreement are included as **Exhibit E – Attachment 1**, and made a part herein by this reference.

D. Evaluation of Contractor

Contractor is hereby notified that the State will evaluate the Contractor's performance for compliance with the terms of this Agreement within 60 days of the completion of the Agreement. The evaluation shall be prepared on a "Contract/Contractor Evaluation," STD Form 4. If the performance of the Contractor is not satisfactory, the State shall send a copy of the evaluation to the California Department of General Services, Office of Legal Services, within five working days after the completion of the evaluation. Contractor shall be notified and sent a copy of the unsatisfactory evaluation within 15 days after its completion.

E. Review of Deliverables

The California Health Benefit Exchange reserves the right to review the Deliverables following Contractor's delivery of each to the California Health Benefit Exchange to determine whether the Deliverables conform to the specifications and to the California Health Benefit Exchange's satisfaction, and to either: reject a Deliverable if it fails to conform to the specifications and to the California Health Benefit Exchange's

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satisfaction or has defects (collectively, “errors”); or to accept each Deliverable if it has no such errors (“Acceptance”). If the California Health Benefit Exchange rejects the Deliverables, Contractor shall, at the California Health Benefit Exchange’s request, promptly correct all such errors and, thereafter, the California Health Benefit Exchange shall again have the opportunity to review the Deliverables. If Contractor is not able to correct all errors in the Deliverables within 30 days following their receipt by the California Health Benefit Exchange, the California Health Benefit Exchange shall have the right to terminate this Agreement, which termination shall be deemed due to Contractor’s default. In the event of any such termination, Contractor shall return all payments previously made to Contractor under this Agreement.

F. Severability

If any provision in this Agreement is invalid or unenforceable in any jurisdiction, the other provisions herein shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to effectuate the purpose and intent of this Agreement, and the invalidity or unenforceability of any provision in this Agreement in any jurisdiction shall not affect the validity or enforceability of any such provision in any other jurisdiction.

G. Waiver of Breach

The waiver by the California Health Benefit Exchange of any breach by Contractor of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by Contractor.

H. Contractor Limitations

Contractor acknowledges that, in governmental contracting, even the appearance of a conflict of interest is harmful to the interest of the State. Thus, Contractor agrees to refrain from any practices, activities or relationships that could reasonably be considered to be in conflict with Contractor's fully performing his/her obligations to the State under the terms of this Contract. Contractor shall inquire about and require disclosure by its Staff and Subcontractors of all activities that may create an appearance of conflict. In the event that Contractor is uncertain whether the appearance of a conflict of interest may reasonably exist, Contractor shall submit to the State Project Manager a full disclosure statement setting forth the relevant details of any activity which the Contractor reasonably believes may have the appearance of a conflict of interest for the State's consideration and direction. Failure to promptly submit a disclosure statement setting forth the relevant details for the State consideration and direction shall be grounds for Termination of this Contract.

Consistent with the Public Contract Code Section 10365.5, no person, firm or subsidiary who has been awarded a consulting services contract may submit a bid, nor be awarded a contract, for the provision of the services, procurement of goods or supplies,

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or any other related action that is required, suggested, or otherwise deemed appropriate in the product of the consulting service contract. This does not apply to:

- (a) Any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract which amounts to no more than 10 percent of the total monetary value of the consulting services contract.
- (b) Consulting services contracts subject to Chapter 10 (commencing with [Section 4525](#)) of Division 5 of Title 1 of the Government Code.

I. Future Contract Services

The services performed under this Agreement may provide a basis for future services. If directed by the Exchange at the Exchange's sole discretion and agreed upon by the Contractor, and subject to Board approval, the parties may amend this Agreement's Statement of Work (Exhibit A) and Budget Detail and Payment Provisions (Exhibit B) to include additional services, including services arising out of the Agreement.

J. Statement of Economic Interests

The Contractor understands that the Contractor's key staff performing work under this Agreement are required to file a Form 700 Statement of Economic Interests with the Exchange within 30 days of execution of this Agreement. If any key staff are added to work on this Agreement, such staff must file the Form 700 within 30 days of their addition.