

January 11, 2018

NOTICE TO PROSPECTIVE BIDDERS

**ADDENDUM 1
TO
RFP No. 17MC-SA009, EXTERNAL PARTY REVIEW SERVICES**

The purpose of this Addendum is to issue a revised package **to extend the due date to Friday, January 19, 2018**. This document replaces the original package. Please review the revised document thoroughly and submit your proposals accordingly. Quotes are due no later than **January 19, 2018 at 4:00 p.m. Pacific Standard Time (PST)**.



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January 11, 2018

**REQUEST FOR PROPOSALS (RFP) - Primary
EXTERNAL PARTY REVIEW SERVICES
RFP No. 17MC-SA009**

You are invited to review and respond to this RFP entitled "External Party Review Services". Potential Proposers are encouraged to download the solicitation package as well as any future addendums from Cal eProcure at: <https://caleprocure.ca.gov/>. In submitting your proposal, you must comply with the instructions found herein. The deadline for submitting proposals is ~~January 12, 2018~~ **January 19, 2018 4:00 p.m. Pacific Standard Time (PST)**.

The Department of Managed Health Care (DMHC) is soliciting proposals from qualified entities to provide External Party Review services in accordance with Senate Bill (SB) 260. The successful Proposer will be awarded a contract term up to two (2) years that is anticipated to begin on April 1, 2018 and end on March 31, 2020. The DMHC reserves the right to amend the Agreement for (1) one Optional Year and/or to increase dollars at bid price. Contract extensions are subject to satisfactory performance, funding availability and approval by the Department of General Services.

The Small Business Preference and other preference programs apply to this solicitation. The Disabled Veteran Business Enterprise (DVBE) participation requirement has been waived; however, the DVBE Incentive Program will apply for this solicitation.

Note that all agreements entered into with the State of California will include by reference General Terms and Conditions and Contractor Certification Clauses that may be viewed and downloaded at Internet site: <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>. If you do not have Internet access, a hard copy can be provided by contacting the person listed below.

In the opinion of DMHC, this RFP is complete. However, if you have questions, or need clarifying information, the contact person for this RFP is:

Ekta Sahay
DMHC Contract Analyst
Ekta.Sahay@dmhc.ca.gov

Please note that **no verbal** information given will be binding upon the State unless such information is issued in writing as an official addendum.

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A. PURPOSE AND DESCRIPTION OF SERVICES

The DMHC is soliciting proposals for External Party Review services to oversee the Corrective Action Plan (CAP) Process when a Risk-Bearing Organization (RBO) contracted by a health plan fails to satisfactorily meet established grading criteria. The services provided may include some or all of the following: overseeing development, implementation and completion of the CAP Process and activities explicitly described in the California Code of Regulations (CCR), Title 28, Section 1300.75.4.8.

A detailed description of the services to be provided is included in Section E, Scope of Work. The Sample Agreement, Section J, Exhibit G, contains California Code of Regulations, Title 28, Sections 1300.75.4, 1300.75.4.2, 1300.75.4.4, 1300.75.4.5, 1300.75.4.7, and 1300.75.4.8 that will apply to the agreement resulting from this RFP.

The DMHC intends to award one (1) Agreement to one (1) Proposer, but shall not guarantee any specific volume of work once the award is made. The total amount awarded under this RFP is \$150,000. For each proposal submitted, the total cost of all deliverables and tasks cannot exceed the specified Agreement amount.

The DMHC reserves the right to extend the Agreement for one (1) Optional Year and/or to increase dollars at bid prices. Agreement extensions are subject to satisfactory performance, funding availability, and approval by the Department of General Services.

B. ADMINISTRATIVE REQUIREMENTS

The successful Proposer who is awarded an Agreement must fulfill the following Administrative Requirements, prior to commencing work, and is responsible for any fees or expenses, including time, for completing these items:

1. **Background Investigation** - Due to the nature of the services to be performed, the DMHC requires a thorough background investigation of the Contractor, its agents, subcontractors and individual employees who will have access to medical information as part of their duties under this Agreement; and reserves the right to disapprove any individual from performing under the scope of this Agreement. This background investigation includes fingerprinting and a California Department of Justice criminal record check. Each Contractor, agent, subcontractor and individual employee who is to perform services under this Agreement must voluntarily consent to a background investigation. Fingerprint rolling fees and background investigation costs will be borne by the Contractor, payable at time of fingerprinting. Previous clearances and/or investigations conducted by other agencies will not be accepted as an alternative to the DMHC's background investigation. It is the Contractor's responsibility to notify the DMHC when an employee working under this Agreement is terminated, not hired or reassigned to other work.

Per Government Code Section 1041, pre-employment background investigations shall be required of contract employees whose duties include or would include access to medical information. The pre-employment background investigation will consist of fingerprinting and an inquiry to the Department of Justice (DOJ) and the Federal Bureau of Investigations (FBI) to disclose Criminal Offender Record Information (CORI). Investigations are conducted to ascertain whether a contract employee has any state or federal convictions, or is currently released from custody on bail or on their own recognizance pending trial, of a crime of "moral turpitude".

2. **Information Security, Integrity and Confidentiality Statement** - Complete Attachment I for Contractor Authorized Representative and Attachment II for project employees, agents or subcontractors, which certify that the Contractor and the Contractor's staff understand and agree to comply with the DMHC's Information Security and Confidentiality Statement.

3. **Annual Information Security Awareness and Privacy Training** - California state policy requires that the DMHC must provide for the proper use and protection of its information assets and arrange for basic security and privacy awareness training (SAM Sections 5305.1; 5320.1; 5320.2, SIMM 5330-B) for **new users and annually** thereafter. Therefore, DMHC contractors (including subcontractors) who access state resources must complete the designated DMHC online annual Information Security Awareness and Privacy Training prior to accessing DMHC information assets and/or beginning work on a contract. The DMHC Information Security Officer will set up your training account. While the training course is free-of-charge, any expenses, including Contractor time, related to new and/or annual Information Security Awareness and Privacy Training will be the responsibility of the Contractor. Active contractors/subcontractors must provide a list of their employees' names and email addresses annually to the DMHC Information Security Officer to administer this online annual Information Security Awareness and Privacy Training.
4. **Statement of Economic Interests (Form 700)** - The California Political Reform Act requires individuals holding positions designated within an agency's conflict of interest code to file an annual Statement of Economic Interests (Form 700). The DMHC's conflict of interest code designates "Consultants" among the positions that must file a Form 700. Your employees or independent contractors have been designated as such consultants and are required to file an original Form 700 with the DMHC. (See Government Code Sections 82019 and 87302). Each of your employees and contractors performing work under the contract must file a Form 700 within 30 days of beginning work under the contract, annually thereafter, and within 30 days after stopping to perform work under the contract. (leaving office statement).
5. **Ethics Certification** - The Government Code requires all officials, employees and contracted consultants designated to file a Form 700, to also complete an Ethics Certification when first assuming a designated position and then every odd numbered year thereafter. In some cases, this means that consultants may be required to complete the Ethics Certification two years in a row if they assumed their designated position during an even numbered year. (See Government Code Sections 11146 through 11146.4).

C. BACKGROUND

The DMHC regulates California's health care service plans which provide coverage to approximately 26 million Californians, and collect \$27 billion dollars of revenue for health care from individuals and their employers, Medicare, Medi-Cal and some other sources. The DMHC regulates approximately 124 health plans of which 74 are full service plans and 50 are specialized plans. Health care plans have service contracts with approximately 186 active RBOs, who deliver or manage a large proportion of the health care services provided to consumers. Health Plans provide about 46 percent of their revenue to these RBOs for consumer health care.

In September 1999, the State Legislature enacted amendments to the Knox-Keene Act, which were codified into statute as Sections 1347.15, 1349.3, 1375.4, 1375.5 and 1375.6, which are referred to in this document as SB 260. SB 260 established the Financial Solvency Standards Board (FSSB), which is responsible for taking action with regard to the financial solvency and standards affecting the delivery of health care services. The Bill requires the DMHC to adopt regulations concerning, among other things, a process for reviewing or grading RBOs based on specified criteria. In 2004 and early 2005, issues concerning the drafts of SB 260 regulations were fully examined by the FSSB. Various stakeholder groups supported the drafts of the SB 260 regulations.

The regulation package titled "For Data Collection, Disclosure Language, Grading/Reviewing and Corrective Action for Risk-Bearing Organizations" file number 2004-0100 was approved by the Office of Administrative Law and filed with the Secretary of State effective September 9, 2005. The affected regulations are the California Code of Regulations (CCR), Title 28, Sections 1300.75.4, 1300.75.4.2, 1300.75.4.4, 1300.75.4.5, 1300.75.4.7, and 1300.75.4.8. These regulations require the collection of

data from RBOs that deliver and manage health care services and establishment of the grading criteria to be used. RBOs are required to implement a CAP if they are found out of compliance within the grading criteria.

The DMHC may delegate certain regulated functions to an external party pursuant to CCR, Title 28, Section 1300.75.4(a). The DMHC is required to collect and analyze the financial statements from the RBOs, which is done on a quarterly and annual basis. The DMHC developed an Information Technology (IT) platform that collects the financial data and CAP requirements via a web-based portal. The DMHC anticipates performing the initial review and analysis of the financial information submitted and contracting with external parties, awarded through this RFP, to oversee the CAP process and activities explicitly described in the CCR, Title 28 Section 1300.75.4.8.

D. MINIMUM QUALIFICATIONS

The Proposer and subcontractor(s) must meet all the following basic education and experience requirements indicated below. If the Proposer is a firm, all lead project personnel must meet the minimum qualifications.

The Proposer must complete Attachment 3, Minimum Qualifications Certification, certifying that the Proposer satisfies all minimum qualifications and requirements. Failure to complete Attachment 3 will result in the immediate rejection of the proposal.

The proposal shall include information to substantiate the following:

1. The organization must have at least five (5) years of experience, evaluating and monitoring financial and administrative practices of medical groups, IPAs, or other health care organizations.
2. References from two (2) health care organizations for which the Proposer has evaluated their financial and/or administrative practices within the last three (3) years (Attachment 5, Proposer References).
3. Corporations must certify and provide documentation that they are in good standing and qualified to conduct business in California

E. SCOPE OF WORK

This is a time and material contract and payment will be provided on a monthly basis upon delivery and acceptance of an invoice.

The DMHC will identify entities that are required to develop a CAP and will submit that information to the Contractor for oversight. The Contractor shall oversee the deficient RBO's development and implementation of a CAP (including approval of the CAP by the DMHC within the timelines specified in the CAP); progression of the CAP (timely progress and compliance); and completion of all activities required by the CAP to achieve compliance with the grading criteria and reporting requirements.

Task 1 - CAP Development and Oversight Process

- 1.1 The Contractor shall identify a Project Coordinator and assign staff that can complete all necessary tasks to conduct the assigned CAP oversight activities as described below and as specified in the CCR, Title 28, Section 1300.75.4.8. Oversight includes evaluating the viability of the proposed corrective actions contained in the CAP to correct a deficiency, and may include, but is not limited to or exhaustive of conducting on-site visits, as required, to:

- a) Review and provide recommendations on the specific activities to be included in the RBO's CAP to correct deficiencies.
 - b) Monitor and verify the progress and completion of the activities necessary for the RBO to comply with the CAP requirements, including timelines for completion.
 - c) Review the RBO's records and administrative systems at the request of the DMHC Contract Manager if the organization fails to achieve adequate progress toward completion of a CAP to determine if additional action is required.
- 1.2 The Contractor shall conduct a financial evaluation and provide recommendation(s) to the DMHC Contract Manager, in an agreed upon format and within ten (10) days of receipt of the RBO's final CAP proposal, as to the viability of each CAP that has been agreed upon by the RBO and its contracting health plan(s). The financial evaluation and recommendations will be considered when the DMHC determines whether the proposed CAP should be approved, modified or disapproved.
- 1.3 Review, analyze and evaluate periodic progress reports submitted by each RBO subject to a CAP.
- 1.4 Request, review and evaluate any additional documentation deemed necessary to properly demonstrate the RBO's progress towards fulfilling the requirements of a CAP.
- 1.5 With respect to this Agreement, the DMHC will have final authority pertaining to all interpretations of the Knox-Keene Act and Title 28 of the California Code of Regulations.

Task 2 - Reporting Requirements

- 2.1 The Contractor shall provide a monthly written report to the DMHC Contract Manager, in an agreed upon format, as to the status of all CAPs that the contractor is responsible for evaluating and monitoring. The report shall include the following elements (at a minimum):
- a) RBO Name:
 - b) CAP Number:
 - c) Status Update
 - d) CAP Recommendations: (include timeline to provide recommendation and include areas of review/concern).
 - e) CAP Progress Report Reviews: (include status of RBO solvency criteria with the approved projections and include areas of concern).

Contractor Responsibilities

- a. Upon request and on a quarterly basis beginning with the effective date of the contract, the Contractor shall provide a report listing all health care organization clients the Contractor is currently engaged with to the DMHC's Contract Manager. In addition, any health care organization clients (Independent Practice Associations (IPA), Medical Group, RBO, Health Plan) contracted by the Contractor must be disclosed to the DMHC Contract Manager within 30 days of contract agreement between Contractor and client.

- b. Once the Contractor is assigned work by the DMHC, the Contractor must provide the DMHC Contract Manager an estimate of the amount of time that will be required as well as an approximate budget, using the Cost Worksheet template to be provided once the contract is finalized, for the assigned work. This budget must be approved by the DMHC Contract Manager prior to work beginning. In the event that any changes to the budget are required, the Contractor will notify the DMHC Contract Manager via e-mail and receive approval of the revised budget prior to work beginning.
- c. The Contractor shall be responsible for the performance of the work as specified in Section E, Scope of Work. The Contractor shall immediately notify the DMHC's Contract Manager of events or proposed changes that could affect the scope, budget or schedule of work performed under this Agreement.
- d. Contractor shall report any health plan, RBO, or CAP that is not in compliance with the grading criteria or processes set forth in CCR 1300.75.4.5, 1300.75.4.7 and 1300.75.4.8 to the DMHC Contract Manager within three (3) days via e-mail or telephone.

F. PROPOSAL REQUIREMENTS AND INFORMATION

1. Key Action Dates

<u>Event</u>	<u>Date</u>	<u>Time</u>
RFP Available to Prospective Proposers	December 14, 2017	
Last Day for Proposers to Submit Questions	December 21, 2017	4:00 p.m. PST
Answers to Questions Posted	December 28, 2017	
Proposal Submittal Deadline	January 12, 2018	January 19, 2018
		4:00 p.m.PST
Cost Proposal Opening	January 23, 2018	January 30, 2018
Notice of Intent to Award (Anticipated)	January 23, 2018	January 30, 2018
Proposed Award Date (Anticipated)	February 12, 2018	February 20, 2018
Contract Term (Anticipated)	April 1, 2018 – March 31, 2020	

Note: The DMHC may modify this RFP prior to the Proposal Submittal Deadline above through the issuance of a formal addendum posted at <https://caleprocure.ca.gov/> and on <http://healthhelp.ca.gov/>. All dates after the Proposal Submittal Deadline are approximate and may be adjusted as conditions indicate, without an Addendum to this RFP.

2. Submission of Questions

All questions must be submitted in writing **prior to 4:00 p.m. PST on December 21, 2017** to Ekta Sahay at Ekta.Sahay@dmhc.ca.gov. The responses to all questions received will be posted on <https://caleprocure.ca.gov/> under External Party Review Services RFP (17MC-SA009) and on <http://HealthHelp.ca.gov>.

To ensure receipt of any addenda or questions and answers that may be issued, interested parties are encouraged to regularly check for new postings on <http://HealthHelp.ca.gov> under "What's New." All addenda and questions will also be posted on <https://caleprocure.ca.gov>. Instructions for free registration to Cal eProcure can be found at: www.documents.dgs.ca.gov/pd/caleprocure/RegistrationInstructions.pdf.

3. General Requirements

- a. The Proposer must not be an affiliate or a subsidiary of, nor in any way owned or controlled by, a health care service plan or a trade association of health care service plans. A board member, director, officer or employee of the Contractor shall not serve as a board member, director or employee of a health care service plan. A board member, director or officer of a health care service plan or a trade association of health care service plans shall not serve as a board member, director, officer or employee of the consultant or consulting firm in accordance with section 1385.06 (3) of the Health and Safety Code.
- b. The Proposer must not be currently engaged in services with a health care service plan or a trade association of health care service plans in California or any activities that could appear to be a conflict of interest.

4. Work Plan Format and Requirements

The Proposer shall provide a narrative Work Plan for task completion outlining their ability to fulfill the requested services as identified in Section E, Scope of Work. Please list "Attachment 6" at the top of your Work Plan. The Work Plan must include the following:

- a. **Proposer Qualifications** – A detailed description of the Proposer's qualifications and previous experience in the evaluation of financial, operational and administrative aspects of medical groups, IPAs or other health care organizations. List the nature and scope of at least two recently completed or ongoing work projects related to Section E, Scope of Work, in the past three (3) years.
- b. **Project Personnel** - A detailed plan estimating the number of individuals and different teams that will be responsible for performing the requested services. Provide a list of all key personnel who will be working on the project (for both the lead organization and any subcontractors), their titles, and attach their résumés. Proposer's assigned personnel and any proposed subcontractor's personnel should have the following minimum years of relevant experience supported by résumés (include any licenses or certifications):
 - Partner/Principal and Manager – 5 years' experience
 - Senior staff – 3 years' experience
 - Journey level staff – 2 years' experience

If subcontracting, identify those persons and/or organizations, the portions and monetary percentages of the work to be done by the subcontractors, how they were selected and why, résumés of each major subcontract participant, and a description of how the subcontracted work will be controlled, monitored, and evaluated. Once the contract is executed, any changes to the personnel must be approved in advance by the DMHC Contract Manager.

- c. **Project Description** - A detailed description of the techniques the Proposer will use to review CAP viability (including the development and oversight), the approaches the Proposer will take to communicate with CAP stakeholders, the methods the Proposer will use to ensure CAP completion and how the Proposer will ensure CAP intermediate and completion timeframes are met.
- d. **Work Samples** – Provide at least two detailed financial and/or operational review/audit work samples of a medical group/IPA/physician group or health plan review that demonstrates the following:

- Review of financial information/statements.
 - Evaluation of supplemental financial information.
 - An analytical approach to review from inception to completion.
 - Organized and completed work papers from the reviews/audits.
 - Final Report that includes analysis, findings and a recommendation.
- e. **Financial Stability** - Submit a copy of the Proposer's last year's annual audited financial statements, and self-certify the ability to cover 60-90 days of incurred costs. Include how long the company has been in business; if the organization is nationwide or local; and the number of years performing services as outlined in Section E, Scope of Work.
- f. **Conflict of Interest** - A detailed description of how the Proposer will monitor for potential conflicts of interest that may preclude it from accepting work assignments from the DMHC. The description should include the criteria to determine a conflict of interest and timeframe for notifying the DMHC after a conflict of interest has been identified. The Proposer must also include their policy and procedures for monitoring conflicts of interest. If the Proposer does not have a policy, they must provide an explanation of how they monitor for potential conflicts of interest.
- g. The Proposer is responsible for identifying all additional information and/or resources that it deems necessary from DMHC to successfully complete all deliverables, activities, or tasks detailed within Section E, Scope of Work.

5. Cost Proposal Format and Requirements

- a. The Proposer must complete the Cost Proposal, Attachment 4, in the prescribed format. Any deviation from the prescribed format, which in the opinion of the DMHC is material, may result in the rejection of the proposal. The proposed cost shall include all fees and expenses for providing services described in this RFP. The successful organization shall only be compensated based on actual services performed at the rates submitted.
- b. Any reimbursement for necessary travel and per diem will not exceed State rates and will abide by CalHR guidelines. All rates can be found at: <http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>
- c. For each proposal submitted, the total cost of all deliverables and tasks cannot exceed the specified contract amount.
- d. All pricing shall remain firm and constant during the entire Agreement term and any extensions.

6. Submission of Proposal

- a. Proposals should provide straight-forward and concise descriptions of the Proposer's ability to perform the requirements of this RFP. The proposal must be complete and accurate. Omissions, inaccuracies or misstatements may be cause for rejection of a proposal.
- b. Proposals must be submitted for the performance of all the services described herein. Any deviation from the work specifications will not be considered and may cause a proposal to be rejected. A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of any form or other irregularities of any kind. The State may reject any or all proposals and may waive an immaterial deviation in a proposal. [The State's waiver of an immaterial deviation shall in no way modify the RFP document, or excuse the Proposer from full compliance with all requirements if awarded the Agreement.]

- c. All proposals shall include the documents identified in Attachment 1, Required Attachment Check List. Proposals not including the Attachments listed below shall be deemed non-responsive. A non-responsive proposal is one that does not meet the basic proposal requirements. All proposals must include the following Attachments:
- i. Attachment 1, Required Attachment Checklist
 - ii. Attachment 2, Proposal/Proposer Certification Sheet
 - iii. Attachment 3, Minimum Qualifications Certification
 - iv. Attachment 4, Cost Proposal
 - v. Attachment 5, Proposer References
 - vi. Attachment 6, Work Plan
 - vii. Attachment 7, DVBE Incentive Application Request (If Applicable)
 - viii. Attachment 8, Darfur Contracting Act Certification (If Applicable)
 - ix. Attachment 9, California Civil Rights Laws Certification
 - x. Attachment 10, CCC 04/2017 Certification
- d. An individual who is contractually authorized to bind the proposing organization shall sign Attachment 2, Proposal/Proposer Certification Sheet. The signature must indicate the title or position that the individual holds in the organization. An unsigned proposal may be rejected.
- e. If the proposal is made under a fictitious name or business title, the actual legal name of the Proposer must be provided.
- f. More than one proposal from an individual, firm, partnership, corporation or association under the same or different names, will not be considered.
- g. Joint proposals are not acceptable. A joint proposal is when two (2) or more Proposers sign and submit a proposal together for requested services.
- h. The proposal package should be prepared in the least expensive method (i.e., cover page with a staple in upper left-hand corner, no elaborate bindings, etc.).
- i. All pages of the proposal shall have the following header and consecutive page numbering format in the upper right-hand corner:
- (Proposer's Legal Name)
RFP #17MC-SA009
External Party Review Services
- j. The Proposer must submit one (1) original and four (4) copies of the original proposal in its entirety, as well as an electronic version in Word format on a CD ROM or USB flash drive. The electronic version shall be included in the separate sealed box/envelope containing the Cost Proposal.
- k. The original proposal must be marked "Original Copy". All documents contained in the original proposal package must have original signatures and must be signed by a person who is authorized to bind the proposing organization. All additional proposal sets may contain photocopies of the original package.
- l. The proposal box/envelope must list the Proposer's legal name and address, the RFP number and title, and must be marked "DO NOT OPEN" as shown in the following example, and shall be mailed or hand-delivered to:

(Proposer's Legal Name)
(Proposer's Address)

DO NOT OPEN
RFP # 17MC-SA009
External Party Review Services
Department of Managed Health Care
Attn: Ekta Sahay
980 9th Street, Suite 500
Sacramento, CA 95814

- m. The Proposal, Attachments, and/or Exhibits must be submitted separately from the Cost Proposal. Submit the Proposal and associated documents in a sealed box/envelope that is named "Envelope No. 1" and in a separately sealed box/envelope that is named "Envelope No. 2 – DO NOT OPEN" which will contain the Cost Proposal, the electronic version of the proposal on a CD ROM or USB flash drive and any associated documentation.
- n. All proposals must be received under sealed cover and sent to the DMHC contact listed above by **4:00 p.m. PST on ~~January 12, 2018~~ January 19, 2018**. Proposals received after this date and time will not be considered. Proposals not submitted under sealed cover and marked as indicated may be rejected.
- o. When hand-delivering a proposal, the Proposer should have the receptionist date/time stamp the envelope immediately upon delivery. Proposals date/time stamped after the due date and time will not be accepted.
- p. A Proposer may modify a proposal after submission by withdrawing its original proposal and resubmitting a new proposal prior to the proposal submission deadline as set forth in Section F, Proposal Requirements and Information, Item 1, Key Action Dates. Proposal modifications offered in any other manner, oral or written, will not be considered.
- q. A Proposer may withdraw its proposal by submitting a written withdrawal request to the DMHC, signed by the Proposer or an authorized agent for the organization. A Proposer may then submit a new proposal prior to the proposal submission deadline. Subsequent to proposal submission deadline, proposals may not be withdrawn without cause.
- r. The Proposers are cautioned to not rely on the DMHC during the evaluation to discover and report to the Proposer any defects and errors in the submitted documents. Proposers, before submitting their documents, should carefully proof them for errors and adherence to the RFP requirements.
- s. The Proposer agrees that in submitting a proposal they authorize the DMHC to verify any or all claimed information, proprietary or non-proprietary, by any reasonable means, including on-site inspection and to verify any references named in their proposal.
- t. Costs incurred for developing proposals and in anticipation of award of an Agreement, are entirely the responsibility of the Proposer and shall not be charged to the State of California.
- u. The DMHC reserves the right to reject all proposals and is not required to award an Agreement.
- v. No oral understanding or Agreement shall be binding on either party.

7. Disposition of Proposals

- a. Upon proposal opening, all documents submitted in response to this RFP will become the property of the State of California, and will be regarded as public records under the California Public Records Act (Government Code Section 2650, et. seq.) and subject to review by the public.
- b. Proposal packages may be returned only at the Proposer’s expense, unless such expense is waived by the DMHC.

8. Evaluation Process and Criteria

- a. At the time of proposal opening, each proposal will be checked for the presence or absence of the required information in conformance with the submission requirements of this RFP. A responsive proposal is one which meets or exceeds the requirements stated in this RFP.
- b. Proposals that contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the Proposer, may be rejected.
- c. Proposers claiming any of the bid preferences shall submit the proper required certification documents and check the box next to the applicable Attachment number on “Attachment 1, Required Attachment Check List”. Refer to the links in Section G, Preference Programs, in this RFP for information regarding preference programs.

Evaluation Criteria are set as follows:

Stage 1: Minimum Qualifications

The proposals that meet the minimum qualifications will be evaluated and scored according to the criteria indicated below. A minimum of 49 points must be achieved in this phase to be considered responsive. (A responsive proposal is one, which meets or exceeds the requirements stated in this RFP.) A minimum of 3.5 points must be achieved for each rating/scoring criteria.

Evaluation Criteria	Maximum Possible Score
1. WORK PLAN EVALUATION (70 points maximum)	
A. <u>Proposer Qualifications:</u> The Proposer’s qualifications and previous experience in the evaluation of financial, operational and administrative aspects of medical groups/IPAs or other health care organizations.	5
B. <u>Project Personnel:</u> The staff expertise and qualifications for those individuals assigned to perform contract work for the Department	5
C. <u>Project Description:</u>	
• Techniques to review CAP viability (Development)	5
• Techniques to review CAP viability (Oversight)	5
• Approaches to communication with CAP stakeholders	5

• Methods to ensure CAP completion	5
• Methods for meeting intermediate and completion timeframes	5
D. <u>Work Samples:</u>	
• Review of financial information/statement analysis	5
• Evaluation of supplemental financial information	5
• Review of the Proposer's analytical approach to financial or operational review/audit from inception to completion	5
• Review of the Proposer's work papers from financial or operational review/audit	5
• Review of final report sample with analysis, findings and recommendation	5
E. <u>Financial Stability</u>	5
F. <u>Conflicts of Interest:</u> The Proposer's methodology for monitoring potential conflicts.	5
Total Possible Points	70

Stage 2: Lowest Responsible Bidder

- a. This phase consists of opening and evaluating the sealed cost proposals. All proposals that enter Phase II will have received 49 points (70%) or more and are considered fully capable of performing the required services.
- b. The sealed envelopes containing the bid price and cost information for the proposals that meet the format requirements and standards shall then be publicly opened and read. The Agreement will be awarded to the lowest responsible bidder excluding costs for the optional year and meeting the requirements outlined in this RFP.

9. Award and Protest

- a. Notice of the proposed award shall be posted in the DMHC lobby at 980 9th Street, Suite 500, Sacramento, California and at <http://www.dmhc.ca.gov> for five (5) days prior to award of the Agreement.
- b. If any Proposer, prior to award of the Agreement, files a protest with the DMHC and the Department of General Services, Office of Legal Services, 707 Third Street, 7th Floor, Suite 7-330, West Sacramento, CA 95605, on the grounds that the (protesting) Proposer would have been awarded the Agreement had the DMHC evaluated and scored their proposal as described in the RFP, the Agreement shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter. It is suggested that any protest be sent by certified or registered mail.
- c. Within five (5) days after filing the initial protest, the protesting Proposer shall file with the Department of General Services, Office of Legal Services and the DMHC a detailed statement specifying the grounds for the protest. The protest must be submitted to the address listed in item C, above.

- d. Upon resolution of the protest and award of the Agreement, the Contractor must complete and submit the Payee Data Record (STD. 204 Form) to determine if the Contractor is subject to state income tax withholding pursuant to the California Revenue and Taxation Code Sections 18662 and 26131. This form is available at <https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std204.pdf>. No payment shall be made unless a completed STD. 204 has been returned to the DMHC.
- e. Upon resolution of protest and award of an Agreement, the Contractor must sign and submit the Contractor Certification Clauses (CCC 04/2017) which are available at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>.

10. Agreement Execution and Performance

- a. Performance shall start on the express date set by the DMHC and the Contractor, after all approvals have been obtained and the Agreement is fully executed. Should the Contractor fail to commence work at the agreed upon time, the DMHC, upon five (5) days written notice to the Contractor, reserves the right to terminate the Agreement.
- b. The State's General Terms and Conditions (GTC) are not negotiable. The DMHC does not accept alternate Agreement language from a Contractor. A proposal with such language will be considered a counter proposal and will be rejected. The GTC 04/2017 may be viewed at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>. If you do not have internet access, a hard copy of the GTC can be provided by contacting the person identified within this solicitation.
- c. All performance under the Agreement shall be completed on or before the termination date of the Agreement.

G. PREFERENCE PROGRAMS

The standard Agreement language for the preference programs applied to this RFP can be found at the Internet websites listed below:

1. Small Business (SB) Preference - www.documents.dgs.ca.gov/pd/smallbus/sbregs.pdf.
2. Non-Small Business Subcontractor Preference - www.documents.dgs.ca.gov/pd/smallbus/sbregs.pdf.
3. Target Area Contract Preference Act (TACPA) <http://www.documents.dgs.ca.gov/pd/poliproc/tacpage.pdf>.

If applying for one of these preference programs, please be sure to complete and submit the required documents, which can be found at the above links.

H. DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) INCENTIVE PROGRAM

Note: The DVBE participation requirement has been waived; however, the DVBE Incentive Program will apply for this solicitation.

Under California Code of Regulations (CCR) Title 2, Section 1896.99.100, the California DVBE Incentive provides responsive and responsible organizations the opportunity to receive additional incentive calculations. The incentive is applied at the time of solicitation evaluation when a proposing organization selects a California-certified DVBE subcontractor to provide services or commodities in

support of the overall contract effort. Application of the DVBE Incentive may place the proposing organization in line for contract award.

The following are key elements of the DVBE Incentive Program:

The DVBE Incentive is applied during the evaluation process and is *only* applied to responsive proposals from responsible organizations proposing the percentage(s) of DVBE participation for the incentive(s) specified in the solicitation.

1. The DVBE Incentive participation is optional and at the discretion of the proposing organization.
2. When requesting the Incentive Application, proposing organizations must complete and return the DVBE Incentive Application Request (Attachment 7) with their proposal at time of submission.
3. The incentive is applied by reducing the cost proposed by the amount of incentive as computed from the lowest responsive and responsible proposal. Computation is for evaluation purposes only. (2 CCR 1896.99.100 (c)).
4. Services or commodities provided by the DVBE firm MUST meet the definition of a “Commercially Useful Function” (CUF) as defined under Government Codes 14837(d)(4) and Military and Veterans Code 999(b)(5)(B). A DVBE firm not meeting CUF regulations will render the proposing organization ineligible for the DVBE Incentive application.
5. The DVBE Incentive application will be based on the Low Cost Method and follows the guidelines identified below:
 - a. Application of the incentive is based on the proposing firm's level of DVBE participation identified (1% - 5% and higher).
 - b. For awards based on low cost, the incentive is applied by reducing the cost proposed by the amount of incentive as computed from the lowest responsive and responsible proposal. (CCR 1896.99.100 (c)).

SAMPLE: Using the incentive scale below (Display is for illustration purposes only)

Confirmed DVBE Participation	Incentive Applied:
1% - 1.99% inclusive	1%
2% - 2.99% inclusive	2%
3% - 3.99% inclusive	3%
4% - 4.99% inclusive	4%
5% and Higher	5%

SAMPLE RESULTS	PROPOSER A	PROPOSER B	PROPOSER C
Responsive/Responsible	Yes	Yes	Yes
Net Proposed Price	\$100,000	\$102,000	\$103,000
Rank	1	2	3
Eligible Preference	None	SB	SB
Eligible Preference	\$0	\$5,000	\$5,000
Subtotal	\$100,000	\$97,000	\$98,000
New Rank	3	1	2
Confirmed DVBE Participation	None (0%)	Yes (3%)	Yes (100%)
Confirmed DVBE Participation Incentive Amount	\$0	\$3,000	\$5,000
Adjusted Bid Amount	\$100,000	\$94,000	\$93,000
New Rank	3	2	1

c. Order of Evaluation:

- i. In applying the calculation preferences, first Small Business preference will be applied, followed by the DVBE Incentive calculation.

I. ATTACHMENTS

ATTACHMENT 1

REQUIRED ATTACHMENT CHECK LIST

Proposer's Name: _____

A complete proposal package will consist of all required items listed in the RFP as well as those identified below. Place an "X" next to each Attachment that you are submitting to the State. For your proposal to be considered responsive, all required Attachments must be submitted with this checklist on top.

Included ✓	Attachment Number	Attachment Name / Description	Form Required
<input type="checkbox"/>	1	Required Attachment Check List	Yes
<input type="checkbox"/>	2	Proposal/Proposer Certification Sheet	Yes
<input type="checkbox"/>	3	Minimum Qualifications Certification	Yes
<input type="checkbox"/>	4	Cost Proposal	Yes
<input type="checkbox"/>	5	Proposer References	Yes
<input type="checkbox"/>	6	Work Plan	Yes
<input type="checkbox"/>	7	DVBE Incentive Application Request	If Applicable
<input type="checkbox"/>	8	Darfur Contracting Act Certification	If Applicable
<input type="checkbox"/>	9	California Civil Rights Laws Certification	Yes
<input type="checkbox"/>	10	CCC 04/2017 Certification	Yes

ATTACHMENT 2
 (Page 1 of 2)

PROPOSAL/PROPOSER CERTIFICATION SHEET

This sheet must be signed and returned along with all the Required Attachments and must bear an original signature of someone authorized to bind your organization contractually.

The signature affixed hereon and dated certifies compliance with all the requirements of this proposal document. The signature below authorizes the verification of this certification.

An Unsigned Proposal/Proposer Certification Sheet May Be Cause for Rejection

1. Organization/Company Name	2. Telephone Number ()	2a. Fax Number ()
3. Address		
Indicate your organization type:		
4. <input type="checkbox"/> Sole Proprietorship	5. <input type="checkbox"/> Partnership	6. <input type="checkbox"/> Corporation
Indicate the applicable employee and/or corporation number:		
7. Federal Employee ID No. (FEIN)	8. California Corporation No.	
9. Indicate applicable license and/or certification information:		
10. Proposer's Name (Print)	11. Title	
12. Signature	13. Date	
14. Are you certified with the Department of General Services, Office of Small Business and Disabled Veteran Certification (OSDC) as:		
a. Small Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter certification number: _____		
b. Disabled Veteran Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter your service code below: _____		
NOTE: A copy of your Certification is required to be included if either of the above items is checked "Yes". Date application was submitted to OSDC, if an application is pending: _____		

ATTACHMENT 2
 (Page 2 of 2)

Completion Instructions for Proposal/Proposer Certification Sheet

Complete the numbered items on the Proposal/Proposer Certification Sheet by following the instructions below.

Item Numbers	Instructions
1, 2, 2a, 3	Must be completed. These items are self-explanatory.
4	Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.
5	Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.
6	Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.
7	Enter your Federal Employee Tax Identification Number.
8	Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.
9	Indicate applicable license and/or certification information that your firm possesses and that is required for the type of services being procured.
10, 11, 12, 13	Must be completed. These items are self-explanatory.
14	If certified as a Small Business Enterprise, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veteran Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSD.

ATTACHMENT 3

MINIMUM QUALIFICATIONS CERTIFICATION

The Proposer must substantiate that it satisfies each of the minimum qualifications, to DMHC's satisfaction, to be given further consideration for a contract award. The statement must contain sufficient information as prescribed to assure DMHC of its accuracy. Failure to provide complete information, based on DMHC's sole judgment, will result in the immediate rejection of the bid.

Please indicate the page number where documentation for each Minimum Qualification is located in the proposal.

Item No.	Qualification	Included in Proposal	Documentation can be found on:
1	The organization must have at least five (5) years of experience, evaluating and monitoring financial and administrative practices of medical groups, Independent Practices (IPA) or other health care organizations.	Yes / No	Page: _____
2	References from two (2) health care organizations for which Proposer has evaluated their financial and/or administrative practices within the last three (3) years.	Yes / No	Page: _____
3	Documentation to support the organization is in good standing and qualified to conduct business in California.	Yes / No	Page: _____

 Proposer's Authorized Signature

 Print Name

 Title

 Date

ATTACHMENT 4
 (Page 1 of 2)

COST PROPOSAL

Proposers must submit their justification for the weighted hourly rate in the format prescribed below. The Cost Proposal must list an all-inclusive Blended Hourly Rate for each classification that will be billed for contracted services throughout the term of the Agreement and any extensions. The Total Weighted Hourly Rate will be used to determine the Proposers total Agency costs. **PLEASE ROUND THE “WEIGHTED PER HOUR” RATE FOR EACH CLASSIFICATION AND TOTAL WEIGHTED HOURLY RATE TO THE NEAREST TWO (2) DECIMAL PLACES (i.e., \$10.536 SHOULD BE NOTED AS \$10.54).**

The hourly rates shall include all costs associated with personnel, fringe benefits, operating expenses, overhead, and all other miscellaneous costs to be incurred for all contracted services mentioned in Section E, Scope of Work. All subcontractors must be identified and a separate Cost Proposal must be submitted. Please note that equipment may not be purchased under this Agreement.

Any reimbursement for necessary travel and per diem shall be in addition to the blended hourly rate, and shall be at rates not to exceed the State rates and will abide by CalHR guidelines. All travel to be reimbursed by DMHC must be submitted on a STD. 262 form and be supported by receipts. All rates can be found at: <http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>

All costs shall not exceed the budgeted amount of \$150,000.

Proposers may modify position/classification titles as applicable.

Term: April 1, 2018 through March 31, 2020

Partner/Principal and Manager	\$____per hour	X	_____% of project time	=	\$____weighted per hour
Senior Staff	\$____per hour	X	_____% of project time	=	\$____weighted per hour
Journey Level Staff	\$____per hour	X	_____% of project time	=	\$____weighted per hour
Administrative Staff	\$____per hour	X	_____% of project time	=	\$____weighted per hour

Total % of project time of (A+B+C+D) should equal 100%

Total Weighted Hourly Rate \$____
(A+B+C+D)

ATTACHMENT 4
(Page 2 of 2)

Optional Year 1

Term: April 1, 2020 through March 31, 2021

All costs for the Optional Year shall not exceed \$75,000.

Partner/Principal and Manager	\$_____per hour	X	_____%	of project time	=	\$_____weighted per hour
Senior Staff	\$_____per hour	X	_____%	of project time	=	\$_____weighted per hour
Journey Level Staff	\$_____per hour	X	_____%	of project time	=	\$_____weighted per hour
Administrative Staff	\$_____per hour	X	_____%	of project time	=	\$_____weighted per hour

Total % of project time of (A+B+C+D) should equal 100%

Total Weighted Hourly Rate (A+B+C+D) \$_____

ATTACHMENT 5

PROPOSER REFERENCES

Submission of this attachment is Mandatory. **Failure to complete and return this attachment with your proposal will cause your proposal to be rejected and deemed nonresponsive.**

List below two (2) references from health care organizations for which the proposing firm has evaluated their financial and/or administrative practices within the three (3) years.

REFERENCE 1			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

REFERENCE 2			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

ATTACHMENT 6

WORK PLAN

Please refer to Section F.4, Work Plan Format and Requirements, for specific instructions.

ATTACHMENT 7

DVBE INCENTIVE APPLICATION REQUEST

Under the DVBE Incentive Regulations, CCR Title 2, Section 1896.99.100, I request the application of the DVBE Program Incentive to RFP 17MC-SA009 to determine if my firm may be in line for bid award.

- a. I understand that the DVBE Incentive application will be applied using the “Low Cost Method” and cannot be used to achieve any applicable minimum point requirements.
- b. I understand the DVBE firm(s) selected must provide a “Commercially Useful Function” as required under Government Codes 14837(d)(4) and Military and Veterans Code 999(b)(5)(B).
- c. I understand I will be required to report my firm’s DVBE activities quarterly to the DMHC Contract Unit.
- d. I understand that subsequent amendments to the Agreement may require continued use of the identified DVBE firm if that contract amendment adds additional funding for continued services.
- e. As the Proposing firm, I identify the following percentage of DVBE participation for this solicitation: ____ percent.

SECTION A - PROPOSING FIRM INFORMATION		
Firm Name:		
Firm Representative:		Title:
Firm Address:		
City:	State:	Zip:
Firm Telephone:		
Firm Email Contact:		

SECTION B - PROPOSED DVBE FIRM		
DVBE Firm Name:		
Firm Representative:		Title:
Firm Address:		
City:	State:	Zip:
Firm Telephone:		Firm Fax:
Firm Email Contact:		
DVBE Certification:	DGS OSDS No.:	Date of Expiration:
Services to be Performed:		

Proposer Instructions:

1. Complete information in Section A.
2. Fax this form to DVBE firm(s) to complete Section B.
3. Instruct the DVBE firm(s) to provide a copy of their DGS Office of Small and DVBE Services Certification.
4. This form must be included with your proposal to be considered for the DVBE Incentive application.

ATTACHMENT 8

DARFUR CONTRACTING ACT CERTIFICATION

Public Contract Code Sections 10475 -10481 applies to any company that currently or within the previous three years has had business activities or other operations outside of the United States. For such a company to bid on or submit a proposal for a State of California contract, the company must certify that it is either a) not a scrutinized company; or b) a scrutinized company that has been granted permission by the Department of General Services to submit a proposal.

If your company has not, within the previous three years, had any business activities or other operations outside of the United States, you do **not** need to complete this form.

OPTION #1 - CERTIFICATION

If your company, within the previous three years, has had business activities or other operations outside of the United States, in order to be eligible to submit a bid or proposal, please insert your company name and Federal ID Number and complete the certification below.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that a) the prospective Proposer/Bidder named below is **not** a scrutinized company per Public Contract Code 10476; and b) I am duly authorized to legally bind the prospective Proposer/Bidder named below. This certification is made under the laws of the State of California.

<i>Company/Vendor Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County and State of</i>

OPTION #2 - WRITTEN PERMISSION FROM DGS

Pursuant to Public Contract Code section 10477(b), the Director of the Department of General Services may permit a scrutinized company, on a case-by-case basis, to bid on or submit a proposal for a contract with a State agency for goods or services, if it is in the best interests of the State. If you are a scrutinized company that has obtained written permission from the DGS to submit a bid or proposal, complete the information below.

We are a scrutinized company as defined in Public Contract Code section 10476, but we have received written permission from the Department of General Services to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

<i>Company/Vendor Name (Printed)</i>	<i>Federal ID Number</i>
<i>Initials of Submitter</i>	
<i>Printed Name and Title of Person Initialing</i>	

ATTACHMENT 9

CALIFORNIA CIVIL RIGHTS LAWS CERTIFICATION

Pursuant to Public Contract Code section 2010, if a bidder or proposer executes or renews a contract over \$100,000 on or after January 1, 2017, the bidder or proposer hereby certifies compliance with the following:

1. CALIFORNIA CIVIL RIGHTS LAWS: For contracts over \$100,000 executed or renewed after January 1, 2017, the contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and

2. EMPLOYER DISCRIMINATORY POLICIES: For contracts over \$100,000 executed or renewed after January 1, 2017, if a Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

CERTIFICATION

I, the official named below, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.		<i>Federal ID Number</i>
<i>Proposer/Bidder Firm Name (Printed)</i>		
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County and State of</i>	

ATTACHMENT 10
 (Page 1 of 4)

CCC 04/2017 CERTIFICATION

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

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

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

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

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

ATTACHMENT 10

(Page 2 of 4)

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

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

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

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser 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.

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

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

ATTACHMENT 10
(Page 3 of 4)

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of 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 awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). 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.
- 2). 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.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-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, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-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 12-month period prior to his or her leaving state service.

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

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

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

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

ATTACHMENT 10

(Page 4 of 4)

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

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

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

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

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

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

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

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

J. SAMPLE AGREEMENT

STATE OF CALIFORNIA
STANDARD AGREEMENT

STD. 213 (Rev 06/03)

AGREEMENT NUMBER 17MC-SA009
REGISTRATION NUMBER

- This Agreement is entered into between the State Agency and the Contractor named below:
 STATE AGENCY'S NAME
Department of Managed Health Care
 CONTRACTOR'S NAME
- The term of this Agreement is:
- The maximum amount \$ of this Agreement is:
- 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 - Statement of Work	# Pages
Exhibit B - Budget Detail and Payment Provisions	# Pages
Exhibit C*- General Terms and Conditions	GTC 04/2017
Exhibit D – Additional Provisions	7 Pages
Exhibit E - Information Security, Integrity and Confidentiality Terms and Conditions	2 Pages
Attachment I. Information Security and Confidentiality Statement (for Contractors)	2 Pages
Attachment II. Information Security and Confidentiality Statement (Employees, Agents & Subcontractors)	1 Page
Attachment III. Security Incident Report (for Contractors)	3 Pages
Exhibit F - Résumés	# Pages
Exhibit G – California Code of Regulations, Title 28. Managed Health Care	13 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.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx

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

CONTRACTOR		California Department of General Services Use Only <input type="checkbox"/> Exempt per:
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		
Department of Managed Health Care		
BY (Authorized Signature)	DATE SIGNED(Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
Cassandra McTaggart, Deputy Director, Administrative Services		
ADDRESS		
980 9th Street, Suite 500, Sacramento, CA 95814		

EXHIBIT A SCOPE OF WORK

1. BACKGROUND

(Provide the context for the need for the services: federal grant, regulation or statute that requires the services or the need for an amendment, etc...)

2. SERVICE OVERVIEW

The Contractor, _____ agrees to provide to the Department of Managed Health Care (DMHC) _____ (type of service) as described herein:

*(Service Types: consulting, services, legal, expert witness, etc.)
(Give a brief overview of services to be provided)*

3. SERVICE LOCATION AND HOURS *(as necessary)*

The services shall be performed at _____ (location).

(This can be a geographical location, city/county, contractor's place of business, State department, etc...)

The services shall be provided during (time frame, i.e.- working hours, 8am-5pm Monday-Friday except State holidays).

4. CONTRACT TERM

The term of this contract is _____ (Month/Day/Year) through _____ (Month/Day/Year)

5. CONTRACT MANAGERS

The Contract Managers during the term of this Agreement will be:

Department of Managed Health Care	Contractor Name:
Division/Unit	Division/Unit:
Name:	Name:
Address: 980 9 th Street, Suite 500 Sacramento, CA 95814	Address:
Phone:	Phone:
Fax:	Fax:
E-mail: Jane.Smith@dmhc.ca.gov	E-mail: John.Doe@Contractor.com

The parties may change their Contract Manager upon providing ten (10) days written notice to the other party. Said changes shall not require an amendment to this Agreement.

6. ADMINISTRATIVE REQUIRMENTS

Contractor agrees to complete the Administrative Requirements outlined in Exhibit D – Additional Provisions, Item 12.

7. SERVICES TO BE PERFORMED

This is a time and material contract and payment will be provided on a monthly basis upon delivery and acceptance of an invoice.

A. SERVICES:

- Task 1: *List Task*
- Task 2: *List Task*
- Task 3: *List Task*
- Task 4: *List Task*

B. CONTRACTOR'S RESPONSIBILITIES:

- 1. *List responsibilities*
- 2. *List responsibilities*
- 3. *List responsibilities*
- 4. *List responsibilities*

C. DMHC'S RESPONSIBILITIES:

- 1. *List responsibilities*
- 2. *List responsibilities*
- 3. *List responsibilities*
- 4. *List responsibilities*

SAMPLE

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. INVOICING AND PAYMENT

- A. For services satisfactorily rendered, and upon receipt of appropriate invoices, the State agrees to compensate the Contractor for actual authorized expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- B. Invoices shall include the DMHC Agreement Number and dates services were performed and shall be submitted in duplicate not more frequently than monthly in arrears to:

Department of Managed Health Care
Accounting Office
980 9th Street, Suite 500
Sacramento, CA 95814

- C. Invoices shall contain the following information:
 - 1. Service period covered;
 - 2. Detailed description of services provided. Each activity must be identified by date performed and the number of hours worked on each activity. In addition:
 - a. Identify specific deliverable, task or service outlined in SOW;
 - b. Number of hours billed for each activity based upon rounding to the nearest quarter hour increment;
 - c. Name of individual performing service and their hourly billing rate;
 - d. Meeting topics and names of participants;
 - e. Case names;
 - f. Change Request numbers;

2. BUDGET CONTINGENCY CLAUSE

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to Contractor to reflect the reduced amount.

3. PROMPT PAYMENT CLAUSE

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

4. BUDGET

- A. The total amount for this Agreement for duties specified under "EXHIBIT A, ITEM #5 BACKGROUND AND SERVICES TO BE PERFORMED" shall not exceed \$ XXXXXX.
- B. Movement of funds between line items is permissible as long as it does not exceed the total budgeted amount and with approval of the DMHC Contract Manager.

(Insert budget breakdown here)

**EXHIBIT C
GENERAL TERMS AND CONDITIONS**

General Terms and Conditions can be viewed online at:
<http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>.

SAMPLE

EXHIBIT D ADDITIONAL PROVISIONS

1. RESOLUTION OF DISPUTES

Notwithstanding the General Terms and Conditions (Exhibit C), and in compliance with Public Contract Code 10381, DMHC adds:

The Contractor should first discuss the problem informally with the Department of Managed Health Care (DMHC) Contract Manager. If the problem cannot be resolved at this stage, the Contractor must direct the grievance together with any evidence, in writing, to the DMHC program Section Chief. The grievance must state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The program Section Chief must make a determination on the problem within ten (10) working days after receipt of the written communication from the Contractor. The program Section Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. Should the Contractor disagree with the program Section Chief's decision, the Contractor may appeal to the next level.

The Contractor must prepare a letter indicating why the program Section Chief's decision is unacceptable, attaching to it the Contractor's original statement of the dispute with supporting documents along with a copy of the program Section Chief's response. This letter shall be sent to the DMHC Deputy Director or designee in which the Section is organized within ten (10) working days from receipt of the program Section Chief's decision. The Deputy Director or designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director or designee shall be returned to the Contractor within twenty (20) working days of receipt of the Contractor's letter.

Authority to terminate performance under the terms of this Agreement is not subject to appeal under this section. All other issues including, but not limited to, the amount of any equitable adjustment and the amount of any compensation or reimbursement that should be paid to the Contractor shall be subject to the disputes process under this section. (Public Contract Code (PCC) Sections 10240.5, 10381, 22200, et seq.)

2. RIGHTS IN DATA

The Contractor agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Agreement are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so, on its behalf. If any Deliverable Work set forth in the Scope of Work is copyrightable, the Contractor, through this Agreement transfers ownership of that copyright to the State, and the State may, as an illustration but not a limitation, reproduce, publish, and use such work, or any part thereof, and authorize others to do so (40 CFR 31.34, 31.36). The State grants the Contractor a royalty-free, nonexclusive, nontransferable, irrevocable license to reproduce, publish and prepare derivative works of the copyrightable work, for noncommercial research and noncommercial educational purposes.

Any material that does not conform to the requirements of this Agreement may be rejected by the State at its discretion. Notice of such a rejection shall be given to the Contractor by the State within ten (10) days of receipt of the materials, and final payment shall not be made for such material until substantial compliance has been obtained within the time and manner determined by the State.

3. CONTRACTOR'S RIGHTS AND OBLIGATIONS

Public Contract Code Sections 10335-10381 contain language describing the Contractor's duties, obligations, and rights under this Agreement. By signing this Agreement, the Contractor certifies that he or she has been fully informed regarding these provisions of the Public Contract Code.

As required by Public Contract Code Section 10371(e)(2), résumés attached hereto and by this reference are incorporated herein.

4. CONTRACTOR EVALUATION

The Contractor's performance under this Agreement shall be evaluated within sixty (60) days after completion. For this purpose a form designated by the Department of General Services (the "Contract/Contractor Evaluation," Form STD. 4) shall be used. Post-evaluations shall remain on file for a period of thirty-six (36) months. If the Contractor did not satisfactorily perform the work or service specified in the Agreement, Contract Manager shall place one copy of the evaluation form in the Agreement file and send one copy of the form to the Department of General Services within five (5) working days of the completion of the evaluation. Upon filing an unsatisfactory evaluation with the Department of General Services, the Contract Manager shall notify and send a copy of the evaluation to the Contractor within fifteen (15) days. The Contractor shall have thirty (30) days to prepare and send statement to the Contract Manager and the Department of General Services defending his or her performance under the Agreement. The Contractor's statement shall be filed with the evaluation in the Contract Manager's file and at the Department of General Services. (PCC 10369)

5. DISCLOSURE REQUIREMENTS

The Contractor shall acknowledge the support of DMHC when publicizing the work performed under this Agreement. Materials developed with contract funds shall contain an acknowledgement of the use of State funds in the development of materials and a disclaimer that the contents do not necessarily reflect the position or policy of DMHC.

If the Contractor or subcontractor(s) are required to prepare multiple documents or written reports, the disclosure statement may also contain a statement indicating that the total Agreement amount represents compensation for multiple documents or written reports.

The Contractor shall include in each of its subcontracts for work under this Agreement a provision which incorporates the requirements stated within this Section.

6. LICENSES AND PERMITS

The Contractor shall be an individual or firm licensed to do business in California and shall obtain at his/her expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this Agreement.

If you are a contractor located within the state of California, a business license from the city/county in which you are headquartered is necessary and must be submitted. However, if you are a corporation, a copy of your incorporation documents/letter from the Secretary of State's Office can be submitted. If you are a contractor outside the state of California, you will need to submit a copy of your business license or incorporation papers for your respective state showing that your company is in good standing in that state.

In the event any license expires at any time during the term of this Agreement, the Contractor agrees to provide the State with a copy of the renewed license within 30 days following the expiration date. In the event the Contractor fails to keep in effect at all times all required license(s) and permit(s), the State may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.

7. TRAVEL AND PER DIEM

All DMHC reimbursement for necessary travel and per diem will not exceed State rates and will abide by CalHR guidelines. The Contractor must include a completed STD. 262 form, with receipts, when submitting invoices to the Accounting Office. All rates can be found at:

<http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>.

8. INSURANCE REQUIREMENTS

When the Contractor submits a signed Agreement to the State, if DMHC requests, the Contractor shall furnish a certificate of insurance, stating that there is liability insurance presently in effect of not less than \$2,000,000 per occurrence for bodily injury and property damage liability combined.

The Certificate of Insurance will include provisions a, b, and c in their entirety:

- a. The insurer will not cancel insured's coverage without 30 days prior written notice to the state.
- b. The State of California, its officers, agents, employees, and servants are included as additional insureds, but only insofar as operations under this Agreement are concerned.
- c. The State will not be responsible for any premiums or assessments on the policy. The Contractor agrees that the bodily injury liability insurance herein provided for shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time during the term of this Agreement, the 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 Agreement, or for a period of not less than one year. New certificates or insurance are subject to the approval of the Department of General Services and the 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 other remedies it may have, terminate this Agreement upon occurrence of such event.

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

Automobile Liability

The Contractor shall maintain commercial auto liability insurance with limits not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. Should the scope of the Agreement involve transportation of hazardous materials, an MCS-90 endorsement is required.

Commercial General Liability

The Contractor, along with any of its subcontractors engaged to perform work pursuant to this Agreement, shall maintain Commercial Liability insurance with limits of at least \$2,000,000 covering any damages caused by an error, omission, or negligent act of the Contractor in connection with the work provided such claims arise during the period commencing upon the preparation of the project work documents and ending 5 years following substantial completion.

Workers' Compensation

The Contractor certifies and is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code and the Contractor agrees to comply with such provisions before commencing performance of the work of this Agreement.

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

9. TERMINATION WITHOUT CAUSE

Notwithstanding GTC termination clause, DMHC adds the following:

The DMHC may terminate this Agreement for any or no reason whatsoever, upon giving the Contractor thirty (30) calendar days prior written notice.

Any termination shall be effected by written notice to the Contractor, either hand-delivered to the Contractor or sent certified mail, return receipt requested. The notice of termination shall specify the effective date of termination.

Upon receipt of notice of termination, and except as otherwise directed in the notice, the Contractor shall:

- a. Stop work on the date specified in the notice;
- b. Place no further orders or enter into any further subcontracts for materials, services or facilities except as necessary to complete work under the Agreement up to effective date of termination;
- c. Terminate all orders and subcontracts;
- d. Promptly take all other reasonable and feasible steps to minimize any additional cost, loss, or expenditure associated with work terminated, including, but not limited to reasonable settlement of all outstanding liability and claims arising out of termination of orders and subcontracts;
- e. Deliver or make available to the DMHC all data, drawings, specifications, reports, estimates, summaries, and such other information and material as may have been accumulated by the Contractor under this Agreement, whether completed, partially completed, or in progress.

In the event of termination, an equitable adjustment in the price provided for in this Agreement shall be made. Such adjustment shall include reasonable compensation for all services rendered, materials supplied, and expenses incurred pursuant to this Agreement prior to the effective date of termination.

10. COMPUTER SOFTWARE COPYRIGHT COMPLIANCE

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

11. ADMINISTRATIVE REQUIREMENTS

The following administrative requirements must be completed before execution of the contract. The Contractor is responsible for any costs or expenses, including time, for completing these items.

a. Background Investigation

Due to the nature of the services to be performed, the DMHC requires a thorough background investigation of the Contractor, its agents, subcontractors and individual employees who will have access to medical information as part of their duties under this Agreement; and reserves the right to disapprove any individual from performing under the scope of this Agreement. This background investigation includes fingerprinting and a California Department of Justice criminal record check. Each Contractor, agent, subcontractor and individual employee who is to perform services under this Agreement must voluntarily consent to a background investigation. Fingerprint rolling fees and background investigation costs will be borne by the Contractor, payable at time of fingerprinting. Previous clearances and/or investigations conducted by other agencies will not be accepted as an alternative to the DMHC's background investigation. It is the Contractor's responsibility to notify the DMHC when an employee working under this Agreement is terminated, not hired or reassigned to other work.

Per Government Code Section 1041, pre-employment background investigations shall be required of contract employees whose duties include or would include access to medical information. The pre-employment

background investigation will consist of fingerprinting and an inquiry to the Department of Justice (DOJ) and the Federal Bureau of Investigations (FBI) to disclose Criminal Offender Record Information (CORI). Investigations are conducted to ascertain whether a contract employee has any state or federal convictions, or is currently released from custody on bail or on their own recognizance pending trial, of a crime of "moral turpitude".

b. Information Security, Integrity and Confidentiality Statement

Complete Attachment I for Contractor Authorized Representative and Attachment II for project employees, agents or sub-contractors, which certify that the Contractor and the Contractor's staff understand and agree to comply with the DMHC's Information Security and Confidentiality Statement.

c. Annual Information Security Awareness and Privacy Training

California state policy requires that the DMHC must provide for the proper use and protection of its information assets and arrange for basic security and privacy awareness training (SAM Sections 5305.1; 5320.1; 5320.2, SIMM 5330-B) for **new users and annually** thereafter. Therefore, DMHC contractors (including subcontractors) who access state resources must complete the designated DMHC online annual Information Security Awareness and Privacy Training prior to accessing DMHC information assets and/or beginning work on a contract. The DMHC Information Security Officer will set up your training account. While the training course is free-of-charge, any expenses, including Contractor time, related to new and/or annual Information Security Awareness and Privacy Training will be the responsibility of the Contractor. Active contractors/subcontractors must provide a list of their employees' names and email addresses annually to the DMHC Information Security Officer to administer this online annual Information Security Awareness and Privacy Training.

d. Statement of Economic Interests (Form 700)

The California Political Reform Act requires individuals holding positions designated within an agency's conflict of interest code to file an annual Statement of Economic Interests (Form 700). The DMHC's conflict of interest code designates "Consultants" among the positions that must file a Form 700. Your employees or independent contractors, working on the above named contract, have been designated as such consultants and are required to file an original Form 700 with the DMHC. (See Government Code Sections 82019 and 87302.)

Additionally, the Government Code requires all officials, employees and contracted consultants designated to file a Form 700, to also complete an Ethics Certification when first assuming a designated position and then every odd numbered year thereafter. In some cases, this means that consultants may be required to complete the Ethics Certification two years in a row if they assumed their designated position during an even numbered year. (See Government Code Sections 11146 through 11146.4.)

e. Conflict of Interest

No Contractor shall participate in the making of, or in any way attempt to influence, a decision in which the Contractor knows, or has reason to know, that it has a financial interest. The Contractor shall notify the DMHC Contract Manager immediately in writing if the Contractor has a potential, or actual, conflict of interest relating to this Agreement.

The Contractor shall abide by the provisions of Government Code Sections 1090, 81000 et seq., 82000 et seq., 87100 et seq., and 87300 et seq., Public Contract Code (PCC) Sections 10335 et seq. and 10410 et seq., California Code of Regulations, Title 2, Section 18700 et seq., and the DMHC Incompatible Activities Policy.

Each of the Contractor's employees assigned to the DMHC project shall file a Statement of Economic Interests, Fair Political Practices Commission (FPPC) Form 700 within thirty (30) days of commencing services under the Agreement, annually during the life of the Agreement, and within thirty (30) days after the expiration of the Agreement.

The Contractor shall have a continuing duty to disclose to the DMHC, in writing, all interests and activities that create an actual or potential conflict of interest in performance of the Agreement.

The Contractor shall have a continuing duty to keep the DMHC timely and fully apprised in writing of any material changes in the Contractor's business structure and/or status. This includes any changes in business form, such as a change from sole proprietorship or partnership into a corporation or vice-versa; any changes in company ownership; any dissolution of the business; any change of the name of the business; any filing in bankruptcy; any revocation of corporate status by the Secretary of State; and any other material changes in the Contractor's business status or structure that could affect the performance of the Contractor's duties under the Agreement.

If the Contractor violates any provision of the above paragraphs, such action by the Contractor shall render this Agreement void.

12. PROHIBITION OF FOLLOW-ON CONTRACTS

No Contractor or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract. (PCC 10365.5)

13. POTENTIAL SUBCONTRACTORS

Nothing contained in this Agreement or otherwise, shall create any contractual relationship between the State and any subcontractors, and no subcontract shall relieve the Contractor of responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. Although the State shall have no obligation to pay any moneys directly to any subcontractor, the Contractor is encouraged to make timely payment to its subcontractors under all applicable State laws, rules and regulations.

14. APPROVAL OF SUBCONTRACTS

The Contractor shall adhere to the rules governing subcontracting as set forth in the subcontracting Fair Practices Act, commencing with Public Contract Code Section (PCC) 4100. Any and all subcontractors must be approved by the DMHC Contract Manager. Subcontractor substitutions also shall be in accordance with the above and shall require the approval of the Contract Manager. Violations of this Act by the Contractor may subject the Contractor to penalties and disciplinary action.

15. SUBSTITUTION OF SUBCONTRACTORS/STAFFING

Upon Agreement award, the Contractor must use the subcontractors and/or suppliers which they proposed in their bid submittal to the State unless a substitution is requested in writing for approval by the State's Contract Manager. The request for substitution may not be used as an excuse for non-compliance with any other provision of State or federal law including, but not limited to subletting and subcontracting.

16. FORCE MAJEURE

Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:

- Acts of God or of the public enemy, and
-

- Acts of the federal or State government in either its sovereign or contractual capacity

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.

17. PROGRESS REPORTS

The Contractor shall submit progress reports to the State representative (Contract Manager) as required, describing work performed, work status, work progress, difficulties encountered, remedial action, and statement of activity anticipated subsequent to reporting period for approval prior to payment of invoices. The Contractor is to be reimbursed by invoicing, in detail, all costs and charges with Contract Number and sending to designated address.

18. WAIVER OF RIGHTS

Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.

19. AMENDMENTS

The DMHC reserves the right to amend this Agreement for an optional year and/or to increase funding for additional External Party Review Services. Should the DMHC amend this Agreement to extend the term, the proposed rates or prices shall be at bid price. All terms and conditions shall remain the same, unless changes are mutually agreed upon by the Contractor and the DMHC and incorporated into the amendment. All agreement amendments are subject to satisfactory performance, funding availability and approval by the Department of General Services. Agreement amendments will not take effect until the Contractor has received a copy of the final purchase document that has been signed by the DMHC Contract Officer or designee.

EXHIBIT E
INFORMATION SECURITY, INTEGRITY AND CONFIDENTIALITY

Where access to personal^[1], confidential^[2], and/or sensitive^[3] information assets^[4] (hereafter, collectively referred to as Confidential Information) is required in the performance of this Agreement for the Department of Managed Health Care (Department); or access to such information is not required but physical access to facilities or computer systems is required and such access presents the potential for incidental access and/or inadvertent disclosure of such information, Contractor agrees to the following:

1. General Confidentiality of Data Provision: Contractor shall protect all Confidential Information from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. This includes, but is not limited to, the secure transport, transmission and storage of data used or acquired in the performance of this Agreement. No reports, information, discoveries or data obtained, assembled or developed by Contractor in the performance of this Agreement may be released, published or made available to any individual or entity without prior written approval from the Department. Contractor shall retain as confidential all work performed under this Agreement, recommendations and/or reports made to the Department, and all discussions between Contractor and Department staff, including all communications, whether oral, written or electronic. The Department may deem non-confidential part or all of the work or other information referenced in this Paragraph without prior permission of Contractor.
2. Contractor warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California and agrees to indemnify the State against any loss, cost, damage or liability by reason of Contractor's violation of this provision, including but not limited to information handling and confidentiality requirements outlined in the California Information Practices Act (Civil Code sections 1798 et. seq.).
3. Contractor shall not, except as authorized or required by his or her duties by law, reveal or divulge to any person or entity any of the Confidential Information concerning the Department and its affiliates which becomes known to him or her during the term of this Agreement.
4. Contractor shall keep confidential all Confidential Information entrusted to him or her and shall not use or attempt to use any such Confidential Information in any manner which may injure or cause loss, either directly or indirectly, to the Department.
5. Contractor shall comply, and shall cause its agents, subcontractors and individual employees to comply, with such directions as the Department shall make to ensure the safeguarding or confidentiality of all its resources.
6. The Department reserves the right to require that, prior to commencing work on this contract, Contractor, its agents, subcontractors and individual employees who will be involved in the performance of this Agreement, sign an information security and confidentiality statement, in a form to be provided by the Department. In such cases, Contractor shall attest that its agents, subcontractors and individual employees

^[1] Information that identifies or describes an individual, including but not limited to, name, social security number, physical description, home address, home telephone number, education, financial account numbers, employment history and individually identifiable health information. (See California State Administrative Manual, sections 5300.4 and 5320.5.)

^[2] Information that is exempt from disclosure under the provisions of the California Public Records Act (GC 6250-6265) or other applicable state or federal laws. (See California State Administrative Manual, sections 5300.4 and 5320.5.)

^[3] Information, either public or confidential, maintained by the Department that requires special precautions to protect from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive information includes, but is not limited to, records of the Department's financial transactions and regulatory actions. (See California State Administrative Manual, sections 5300.4 and 5320.5.)

^[4] All categories of automated information, including but not limited to records, files, statistics and databases; and information technology facilities, equipment (including personal computer systems), and software owned or leased by the Department. (See California State Administrative Manual, section 5300.4.)

who will be involved in the performance of this Agreement are bound by terms of a confidentiality agreement with Contractor similar in nature to this statement.

7. Contractor shall immediately notify the Department when it discovers that there may have been a breach in security which has or may have resulted in compromise to Confidential Information. For purposes of this Paragraph, immediately is defined as within 2 hours of discovery. The Department contact for such notification is as follows:

Information Security Officer
Department of Managed Health Care
980 9th Street, Suite 500
Sacramento, CA 95814

916-445-7460 Phone
916-322-0662 FAX

Contractor shall furnish written notification of the discovery, including a description of the nature of the breach or potential breach in security, in a form to be provided by the Department, to the Department contact within 48 hours of Contractor's discovery.

8. Contractor agrees to properly secure and maintain any computer systems (hardware and software applications) that Contractor will use in the performance of this Agreement. This includes ensuring that all security patches, upgrades, and anti-virus updates are applied appropriately to secure data that may be used, transmitted, or stored on such systems in the performance of this Agreement.
9. Whenever Contractor utilizes non-State issued equipment in the performance of this Agreement, Contractor agrees, in addition to Paragraphs 1 through 8 above, to abide by the requirement of State Administrative Manual (SAM) [Section 5305.8](#).

SAMPLE

ATTACHMENT I

INFORMATION SECURITY AND CONFIDENTIALITY STATEMENT (for Contractors)

(Contractor Name) understands that, while performing its duties under Agreement number **(DMHC Contract Number)** with the California Department of Managed Health Care (Department), Contractor may have access to personal¹, confidential², and/or sensitive³ information assets⁴ as well as documents. Contractor agrees to protect these assets and documents from unauthorized (accidental or intentional) access, modification, destruction, or disclosure. Moreover, Contractor agrees to safeguard the integrity of the Department's information assets and documents and preserve them for their intended purpose, including the availability, accuracy, and completeness of information systems and the data maintained within those systems.

Special precautions are necessary to protect the Department's information assets. As such, **Contractor agrees to comply with all State and Federal law and policy regarding use of information assets and agrees to:**

- Access and use information assets only for performing duties pursuant to Agreement number **(DMHC Contract Number)** with the Department;
- Install and maintain encryption technology for all personal, sensitive, or confidential information that is stored on portable electronic storage media (including, but not limited to, CDs and thumb drives) and on portable computing devices (including, but not limited to, handheld devices, laptop and notebook computers) following the Federal Information Processing Standards (FIPS 140-2);
- Store and transmit information assets in accordance with the Department's information security practices, including, but not limited to, using encryption technology;
- Maintain security patches and upgrades, and keep virus software up-to-date on all systems on which the information assets may be used;
- Set the lock computer feature on personal laptops or PCs to automatically engage after no more than 15 (fifteen) minutes of keyboard and/or mouse inactivity;
- Never access information assets for illegal use, personal interest or advantage;
- Never show, disclose or discuss information assets to or with unauthorized persons;
- Never remove information assets from any Department-controlled work area without authorization; and
- Notify the Department contact under this Agreement immediately if Contractor discovers that there may have been a breach in security involving these information assets.

Contractor certifies that its agents, subcontractors and individual employees who will be involved in the performance of this Agreement are bound by terms of a confidentiality agreement with Contractor similar in nature to this statement.

Contractor and its agents and subcontractors understand that its activities involving the Department's information assets may be monitored and that personal equipment used may be randomly audited for security compliance at the Department's discretion. Contractor gives express consent to such monitoring and auditing. Contractor certifies that it has read, understand and will comply with this Information Security and Confidentiality Statement.

Agreed to: _____ (Contractor)

By: _____

Print Name

Signature

Title

_____ Date

(Notes follow on page 2)

NOTES

- ¹ Information that identifies or describes an individual, including, but not limited to, name, social security number, physical description, home address, home telephone number, education, financial account numbers, employment history and individually identifiable health information. (See California State Administrative Manual, sections 5300.4 and 5320.5.)
 - ² Information that is exempt from disclosure under the provisions of the California Public Records Act (GC §§6250-6265) or other applicable state or federal laws. (See California State Administrative Manual, sections 5300.4 and 5320.5.)
 - ³ Information, either public or confidential, maintained by the Department that requires special precautions to protect from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive information includes, but is not limited to, records of the Department's financial transactions and regulatory actions. (See California State Administrative Manual, sections 5300.4 and 5320.5.)
 - ⁴ All categories of automated information, including but not limited to records, files, statistics and databases; and information technology facilities, equipment (including personal computer systems), and software owned or leased by the Department. (See California State Administrative Manual, section 5300.4.)
-

ATTACHMENT II
INFORMATION SECURITY AND CONFIDENTIALITY STATEMENT
(for Employees, Agents and Subcontractors)

As an employee, agent or subcontractor of _____ I understand that, while performing my duties under Agreement number **(DMHC Contract Number)** with the California Department of Managed Health Care (Department), I may have access to personal¹, confidential², and/or sensitive³ information assets⁴ as well as documents. I agree to protect these assets and documents from unauthorized (accidental or intentional) access, modification, destruction, or disclosure. Moreover, I agree to safeguard the integrity of the Department's information assets and documents and preserve them for their intended purpose, including the availability, accuracy, and completeness of information systems and the data maintained within those systems.

Special precautions are necessary to protect the Department's information assets. As such, **I agree to comply with all State and Federal law and policy regarding use of information assets and agree to:**

- Access and use information assets only for performing duties pursuant to Agreement number **(DMHC Contract Number)** with the Department;
- Ensure that encryption technology has been installed and is being maintained for all personal, sensitive, or confidential information that is stored on portable electronic storage media (including, but not limited to, CDs and thumb drives) and on portable computing devices (including, but not limited to, handheld devices, laptop and notebook computers) following the Federal Information Processing Standards (FIPS 140-2).
- Store and transmit information assets in accordance with the Department's information security practices, including, but not limited to, using encryption technology;
- Maintain security patches and upgrades, and keep virus software up-to-date on all systems on which the information assets may be used;
- Set the lock computer feature on personal laptops or PCs to automatically engage after no more than 15 (fifteen) minutes of keyboard and/or mouse inactivity;
- Never access information assets for illegal use, personal interest or advantage;
- Never show, disclose or discuss information assets to or with unauthorized persons;
- Never remove information assets from any Department-controlled work area without authorization; and
- Notify my supervisor/manager under this Agreement immediately if I discover that there may have been a breach in security involving these information assets.

I understand that my activities involving the Department's information assets may be monitored and that my personal equipment may be randomly audited for security compliance at the Department's discretion. I give express consent to such monitoring and auditing. I certify that I have read, understand and will comply with this Information Security and Confidentiality Statement.

Print Full Name

Signature

Date

¹ Information that identifies or describes an individual, including, but not limited to, name, social security number, physical description, home address, home telephone number, education, financial account numbers, employment history and individually identifiable health information. (See California State Administrative Manual, sections 5300.4 and 5320.5.)

² Information that is exempt from disclosure under the provisions of the California Public Records Act (GC §§6250-6265) or other applicable state or federal laws. (See California State Administrative Manual, sections 5300.4 and 5320.5.)

³ Information, either public or confidential, maintained by the Department that requires special precautions to protect from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive information includes, but is not limited to, records of the Department's financial transactions and regulatory actions. (See California State Administrative Manual, sections 5300.4 and 5320.5.)

⁴ All categories of automated information, including but not limited to records, files, statistics and databases; and information technology facilities, equipment (including personal computer systems), and software owned or leased by the Department. (See California State Administrative Manual, section 5300.4.)

ATTACHMENT III

INFORMATION SECURITY INCIDENT REPORT FOR CONTRACTORS

Contractor is required to follow a prescribed process when an information security incident occurs. Contractor must notify the Department of Managed Health Care's (DMHC) Information Security Officer (ISO) immediately upon discovery of an incident. The prescribed process includes the following steps:

1. Immediately call the DMHC ISO at (916) 323-7908 to report the incident

You may leave a message if the DMHC ISO is not available. Leave your contact information. You will receive a call back within 24-hours of your call.

2. Guidance for reporting the incident

- Name and address of the reporting entity.
- Name, address, e-mail address, and phone number(s) of the reporting person.
- Name, address, e-mail address, and phone number(s) of the alternate contact.
- Description of the incident.
- Date and time the incident occurred.
- Date and time the incident was discovered.
- Make / model of the affected computer(s).
- IP address of the affected computers(s).
- Assigned name of the affected computers(s).
- Operating system of the affected computers(s).
- Location of the affected computers(s).
- Any actions at and following the time of discovery that were taken prior to calling the DMHC ISO.

IMPORTANT: Reporting must NOT be delayed until all of this information is gathered. It is understood that in some circumstances this information may not be readily available. Therefore, the reporting entity must make the report to the DMHC ISO immediately and provide as much information as possible at the time the incident is discovered.

3. Personally Identifiable Information (PII)

Contractor is required to report whether the incident involves personally identifiable information, including, but not limited to, breach notice-triggering personal information as defined in California Civil Code Section 1798.29.

Note: this section now includes categories of medical information and health information.

4. Written Report

The Information Security Incident Report for Contractors must be completed and forwarded to the Office of Technology and Innovation - Security Management Division within 48 (forty-eight) hours following Contractor's discovery of the incident. The completed Incident Report must be signed by the appropriate Contractor staff authorized to sign on behalf of the Contractor.

The Incident Report must be mailed to the address listed on the report. An electronic version of the Incident Report, in lieu of a hard copy, may be made available at the discretion of the DMHC ISO.

Contractor Name: _____ Contract No.: _____
Address: _____
Phone Number: _____ Email: _____

A. Date the DMHC ISO was notified: _____

B. Incident Details:

1. Date incident occurred: _____ Unknown
2. Date incident detected: _____ Unknown
3. Incident location: _____
4. General description: _____

5. Media/Device type, if applicable: _____

- a) Was the portable storage device encrypted? Yes No

If NO, explain: _____

6. Incidents involving personally identifiable information:

- a) Was personally identifiable information involved? Yes No (If No, go to Part C)

Type of personally identifiable information (Check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Name | <input type="checkbox"/> Health or Medical Information |
| <input type="checkbox"/> Social Security Number | <input type="checkbox"/> Financial Account Number |
| <input type="checkbox"/> Driver's License/State ID Number | <input type="checkbox"/> Other (Specify) |

b) Number of individuals affected: _____

C. Corrective Actions Planned/Taken to Prevent Future Occurrences:

1. Date corrective actions will be fully implemented: _____

D. Signature (Authorized Contractor Staff):

Print Name

Signature

Date

Incident report must be mailed to:

Department of Managed Health Care
OTI - Security Management Division
Attention: Information Security Officer
980 9th Street, Suite 500
Sacramento, CA 95814

Note: An electronic version of the Incident Report, in lieu of a hard copy, may be made available at the discretion of the DMHC ISO.

The information contained in this document is confidential and should be maintained and safeguarded as confidential information.

Instructions

Contractor Name – Provide your company's name.

Contract Number - Provide DMHC Contract number involved.

Address – Provide your company's address, phone number, and email address.

- A. Date of notification** by phone to the DMHC ISO at **(916) 323-7908**. Notification to other DMHC staff by email or any other method is NOT a substitute for the required DMHC ISO notification.
- B. Incident Details** - Provide the date the incident occurred and the date the incident was discovered, if known. In the general description field, provide an overview of the incident with enough details so that the incident can be easily understood. Do not include any personally identifiable information (such as social security numbers, home addresses, etc.). Your report should include the following information, as applicable:
1. **Date incident occurred.**
 2. **Date incident discovered.**
 3. **Incident location** – Provide the location where the incident occurred. For example, if a laptop was stolen from an employee's home, suggested content might be, "Employee's Home, Roseville, CA" or, if the incident occurred at the contractor's office, suggested content might be, "Contractor's Headquarters, 123 Any Street, Sacramento, CA"
 4. **General description** – include the following in the description:
 - When the incident occurred and how it was discovered.
 - The number of people affected by this incident.
 - The details of any law enforcement investigation of this incident, such as, which agency investigated, when, and the report number.
 - Any personal, confidential, or sensitive information involved.
 5. **Media/Device type, if applicable** – Provide the type of media or device involved in the incident, such as paper (fax, mail, etc.) or electronic (CD, floppy drive, laptop, PDA, email, thumb drive, etc.).
 - a) **Was the portable storage device encrypted?** – Check appropriate box. If NO, describe why the storage device was not encrypted.
 6. **Incidents involving personally identifiable information:**
 - a) **Was personally identifiable information involved?** – Check appropriate boxes.
 - b) **Number of individuals affected** – Identify the number of individuals whose personally identifiable information was breached.
- C. Corrective Actions Planned/Taken to Prevent Future Occurrences** – Provide a detailed description of the corrective actions taken, or planned to be taken, by your company to prevent future occurrences of a similar incident.
 1. **Date corrective actions will be fully implemented** – Provide a date when the corrective actions were, or will be, fully implemented.

D. Signatures – Authorized Contractor representative must sign this report.

Mail the completed Incident Report, without these instructions, to:

Department of Managed Health Care
OTI - Security Management Division
Attention: Information Security Officer
980 9th Street, Suite 500
Sacramento, CA 95814

Note: An electronic version of the Incident Report, in lieu of a hard copy, may be made available at the discretion of the DMHC ISO.

EXHIBIT G
CALIFORNIA CODE OF REGULATIONS, TITLE 28. MANAGED HEALTH CARE

For Data Collection, Disclosure Language, Grading/Reviewing and Corrective Action For Risk-Bearing Organizations

Amending Regulations 1300.75.4 and 1300.75.4.5, and adopting sections 1300.75.4.2, 1300.75.4.4, 1300.75.4.7 and 1300.75.4.8 of Title 28, California Code of Regulations, to read:

§ 1300.75.4. Definitions.

As used in these Solvency Regulations:

- (a) "External party" means the Department of Managed Health Care or its designated agent, which may be contracted or appointed to fulfill the functions stated in these Solvency Regulations. Whenever these Solvency Regulations reference the Department of Managed Health Care, that reference means the Department of Managed Health Care (Department) or its designated agent.
 - (b) "Organization" means a risk-bearing organization as defined in Health and Safety Code section 1375.4(g).
 - (c) "Plan" means full-service health care service plan, as defined by Health and Safety Code section 1345(f).
 - (d) "Risk arrangement" is defined to include both "risk-sharing arrangement" and "risk-shifting arrangement," which are defined as follows:
 - (1) "Risk-sharing arrangement" means any compensation arrangement between an organization and a plan under which the organization shares the risk of financial gain or loss with the plan.
 - (2) "Risk-shifting arrangement" means a contractual arrangement between an organization and a plan under which the plan pays the organization on a fixed, periodic, or capitated basis, and the financial risk for the cost of services provided pursuant to the contractual arrangement is assumed by the organization.
 - (e) "Solvency Regulations" means sections 1300.75.4 through 1300.75.4.8 of Title 28 of the California Code of Regulations.
 - (f) "Cash-to-claims ratio" is an organization's cash, readily available marketable securities and receivables, excluding all risk pool, risk-sharing, incentive payment program and pay-for-performance receivables, reasonably anticipated to be collected within 60 days divided by the organization's unpaid claims (claims payable and incurred but not reported [IBNR] claims) liability.
 - (g) "Corrective action plan" (CAP) means a plan reflected in a document containing requirements for correcting and monitoring an organization's efforts to correct any financial solvency deficiencies in the Grading Criteria or other financial or other claims payment deficiencies, determined through the Department's review or audit process, indicating that the organization may lack the capacity to meet its contractual obligations consistent with the requirements of section 1300.70(b)(2)(H)(1) of Title 28, California Code of Regulations.
 - (h) "Grading Criteria" means the four grading/reviewing criteria specified in Health and Safety Code sections 1375.4(b)(1)(A)(i), (ii), (iii), and (iv) and the cash-to-claims ratio as defined in subsection (f) above.
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- (i) "In a manner that does not adversely affect the integrity of the contract negotiation process" means the disclosure of an organization's financial data submissions in a format that impairs the organization's ability to negotiate its contracts for the delivery of health care services or allows a contracting party to calculate: (1) an organization's precise profit/loss margins on any line of business, (2) or the rates that the organization has negotiated with any contracting entity or vendor during a prior accounting period.

Authority: Sections 1344 and 1375.4, Health and Safety Code.

Reference: Section 1375.4, Health and Safety Code.

§ 1300.75.4.2. Organization Information.

Every contract involving a risk arrangement between a plan and an organization shall require the organization to do the following:

- (a) Beginning January 1, 2006 maintain at all times a minimum "cash-to-claims ratio," as defined in section 1300.75.4(f), of 0.60 that shall be increased according to the following schedule:
- (1) Beginning on July 1, 2006 the minimum cash-to-claims ratio shall be 0.65; and
 - (2) Beginning on January 1, 2007 and thereafter the minimum cash-to-claims ratio shall be 0.75.
- (b) Quarterly Financial Survey. For each quarter beginning on or after July 1, 2005 submit to the Department, not more than forty-five (45) days after the close of each quarter of the fiscal year, a quarterly financial survey report in an electronic format to be supplied by the Department of Managed Health Care (Department) pursuant to section 1300.41.8 of Title 28, California Code of Regulations, containing all of the following:
- (1) For organizations serving at least 10,000 covered lives under all risk arrangements as of December 31 of the preceding calendar year:
 - (A) Financial survey report (including a balance sheet, an income statement, and a statement of cash flows), or in the case of a nonprofit entity comparable financial statements and supporting schedule information (including but not limited to, aging of receivable information), reflecting the results of operations for the immediately preceding quarter, prepared in accordance with generally accepted accounting principles (GAAP) and the identification of the individual or office in the organization designated to receive public inquiries. Financial survey reports of an organization required pursuant to these rules shall be on a combining basis with an affiliate, if the organization or such affiliate is legally or financially responsible for the payment of the organization's claims. Any affiliated entity included in this report shall be separately identified reported in a combining schedule format. For the purposes of this section, an organization's use: 1. of a "sponsoring organization" arrangement to reduce its liabilities for the purposes of calculating tangible net equity and working capital or 2. an affiliated entity to provide claims processing services shall not be construed to automatically create a legal or financial obligation to pay the claims liability for the health care services for enrollees.
 - (B) A statement as to what percentage of completed claims the organization has timely reimbursed, contested, or denied during the quarter in accordance with the requirements of Health and Safety Code sections 1371, and 1371.35, section 1300.71 of Title 28 of the California Code of Regulations, and any other applicable state and federal laws and regulations. If less than 95% of all complete claims have been reimbursed, contested or denied on a timely basis, the statement shall be accompanied by a report that describes the reasons why the claims adjudication process is not meeting the requirements of applicable law, any action taken to correct the deficiency, and any results of that action. This claims payment report is for the purpose of monitoring the financial solvency of the organization and
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is not intended to change or alter existing state and federal laws and regulations relating to claims payment settlement practices and timeliness.

- (C) A statement as to whether or not: 1. the organization has estimated and documented, on a monthly basis, its liability for IBNR claims, pursuant to a method specified in section 1300.77.2, and 2. the estimates are the basis for the quarterly financial survey report submitted under these Solvency Regulations. If the estimated and documented liability has not met the requirements of section 1300.77.2 in any way, a statement shall be included in the quarterly financial survey report that describes in detail the following with respect to each deficiency: the nature of the deficiency, the reasons for the deficiency, the action taken to correct the deficiency, and the results of that action. An organization failing: a. to estimate and document, on a monthly basis, its liability for IBNR claims or b. to maintain its books and records on an accrual accounting basis shall be deemed to have failed to maintain, at all times, positive tangible net equity (TNE) and positive working capital as set forth in subsection (D) below.
- (D) 1. A statement as to whether or not the organization has at all times during the quarter maintained positive TNE, as defined in section 1300.76(e) of Title 28 California Code of Regulations; and has at all times during the quarter maintained positive working capital, calculated in a manner consistent with GAAP. If either the required TNE or the required working capital has not been maintained at all times, a statement shall be included in the quarterly financial survey report that describes in detail the following, with respect to each deficiency: the nature of the deficiency, the reasons for the deficiency, any action taken to correct the deficiency, and any results of that action.
2. The organization may reduce its liabilities or increase its cash for purposes of calculating its TNE, working capital and cash-to-claims ratio in a manner allowed by Health and Safety Code section 1375.4(b)(1)(B) so long as the sponsoring organization has filed with the Department: a. its audited annual financial statements within 120 days of the end of the sponsoring organization's fiscal year and b. a copy of the written guarantee meeting the requirements of Health and Safety Code section 1375.4(b)(1)(B). For purposes of Health and Safety Code section 1375.4(b)(1)(B), a sponsoring organization shall have a TNE of at least twice the total of all amounts that it has guaranteed to all persons and entities, or a lesser amount in situations where the organization can demonstrate to the Director's satisfaction and written approval that a lesser amount of TNE is sufficient. If an organization has a sponsoring organization, the organization shall provide information to the Department demonstrating the capacity of the sponsoring organization to guarantee the organization's debts, as well as the nature and scope of the guarantee provided, consistent with Health and Safety Code section 1375.4(b)(1)(B).
- (E) For the quarter beginning on or after January 1, 2006, a statement as to whether or not the organization has, at all times during the quarter, maintained a cash-to-claims ratio as required in section (a), calculated in a manner consistent with GAAP. If the required cash-to-claims ratio has not been maintained at all times, a statement shall be included in the quarterly financial survey report that describes in detail the following with respect to the deficiency: the nature of the deficiency, the reasons for the deficiency, any action taken to correct the deficiency, and any results of that action.
- (2) For organizations serving less than 10,000 covered lives under all risk arrangements as of December 31 of the preceding calendar year:
- (A) The disclosure statement(s) set forth in sections (b)(1)(B), (C), (D) and (E) above.
- (B) In the event an organization serving less than 10,000 covered lives under all risk arrangements: 1. fails to satisfactorily demonstrate its compliance with the Grading Criteria; 2. experiences an event that materially alters the organization's ability to remain compliant
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with the Grading Criteria; 3. is found, by the external party's review or audit activities, to potentially lack sufficient financial capacity to continue to accept financial risk for the delivery of health care services consistent with the requirements of section 1300.70(b)(2)(H)(1); or 4. is found, through the Department's HMO Help Center, medical audits and surveys, or any other source, to be delaying referrals, authorizations, or access to basic health care services based on financial considerations, the organization shall, within 30 calendar days of the Department's written request, begin submitting complete quarterly financial survey reports pursuant to section 1300.75.4.2(b)(1).

(c) Annual Financial Survey.

- (1) Regardless of the number of covered lives served under all risk arrangements, submit to the Department, not more than one hundred fifty (150) days after the close of the organization's fiscal year beginning on or after January 1, 2005, and not more than one hundred fifty (150) days after the close of each of the organization's subsequent fiscal years, an annual financial survey report in an electronic format to be supplied by the Department pursuant to section 1300.41.8 of Title 28 California Code of Regulations, based upon the organization's annual audited financial statement prepared in accordance with generally accepted auditing standards, and containing all of the following:
 - (2) Annual financial survey report, based upon the organization's annual audited financial statements (including at least a balance sheet, an income statement, a statement of cash flows, and footnote disclosures), or in the case of a nonprofit entity, comparable financial statements, and supporting schedule information, (including, but not limited, to aging of receivable information and debt maturity information), for the immediately preceding fiscal year, prepared by the independent certified public accountant in accordance with GAAP.
 - (3) Financial survey reports of an organization required pursuant to these Solvency Regulations shall be on a combining basis with an affiliate if the organization or such affiliate is legally or financially responsible for the payment of the organization's claims. Any affiliated entity included in the report shall be separately identified. For the purposes of this section, an organization's use of: (A) a "sponsoring organization" arrangement to reduce its liabilities for the purposes of calculating TNE and working capital or (B) an affiliated entity to provide claims processing services shall not be construed to automatically create a legal or financial obligation to pay claims liability for health care services for enrollees.
 1. When combined financial statements are required by this regulation, the independent accountant's report or opinion must address all the entities included in the combined financial statements. If the accountant's report or opinion makes reference to the fact that another auditor performed a part of the examination, the organization shall also file the report or opinion issued by the other auditor.
 2. For purposes of determining the independence of the certified public accountant, the regulations of the California State Board of Accountancy (Division 1, sections 1 through 99.2, Title 16, California Code of Regulations), shall apply.
 - (4) The opinion of the independent certified public accountant indicating: (A) whether the organization's annual audited financial statements present fairly, in all material respects, the financial position of the organization, and whether the financial statements were prepared in accordance with GAAP. If the opinion is qualified in any way, the survey report shall include an explanation regarding the nature of the qualification.
 - (5) A statement as to whether or not the organization has estimated and documented, on a monthly basis, its liability for IBNR claims, pursuant to a method specified in section 1300.77.2, and that these estimates are the basis for the financial survey reports submitted under these Solvency Regulations. If the estimated and documented liability has not met the requirements of section 1300.77.2, a statement shall be included in the annual financial survey report that describes in

detail the following with respect to each deficiency: the nature of the deficiency, the reasons for the deficiency, the action taken to correct the deficiency, and the results of that action. An organization failing: (A) to estimate and document, on a monthly basis, its liability for IBNR claims, or (B) to maintain its books and records on an accrual accounting basis, shall be deemed to have failed to maintain, at all times, positive TNE and positive working capital as set forth in subsection (6)(A) below.

- (6) (A) A statement as to whether or not the organization has, at all times during the year, maintained positive TNE, as defined in section 1300.76(e); and has, at all times during the year, maintained positive working capital, calculated in a manner consistent with GAAP. If either the required TNE or the required working capital has not been maintained at all times, a statement shall be included in the annual financial survey report that describes in detail the following with respect to each deficiency: the nature of the deficiency, the reasons for the deficiency, any action taken to correct the deficiency, and any results of that action.
 - (B) The organization may reduce its liabilities for purposes of calculating its TNE and working capital in a manner allowed by Health and Safety Code section 1375.4(b)(1)(B), so long as the sponsoring organization has filed, with the Department: 1. its audited annual financial statements within 120 days of the end of the sponsoring organization's fiscal year and 2. a copy of the written guarantee meeting the requirements of Health and Safety Code section 1375.4(b)(1)(B). For purposes of Health and Safety Code section 1375.4(b)(1)(B), a sponsoring organization shall have a TNE of at least twice the total of all amounts that it has guaranteed to all persons and entities, or a lesser amount in situations where the organization can demonstrate to the Director's satisfaction and written approval that a lesser amount of TNE is sufficient. If an organization has a sponsoring organization, the organization shall provide information to the Department demonstrating the capacity of the sponsoring organization to guarantee the organization's debts as well as the nature and scope of the guarantee provided consistent with Health and Safety Code section 1375.4(b)(1)(B).
- (7) For the fiscal year beginning on or after January 1, 2006, a statement as to whether or not the organization has at all times during the year maintained a cash-to-claims ratio as required in section (a), calculated in a manner consistent with GAAP. If the required cash-to-claims ratio has not been maintained at all times, a statement shall be included in the quarterly financial survey report that describes in detail the following with respect to the deficiency: the nature of the deficiency, the reasons for the deficiency, any action taken to correct the deficiency, and any results of that action.
 - (8) A statement as to whether the organization maintains reinsurance and/or professional stop-loss coverage.
 - (9) The annual financial survey report shall include, as an attachment, a copy of the complete annual audited financial statement, including footnotes and the certificate or opinion of the independent certified public accountant.
- (d) Statement of Organization Survey. Submit to the external party, a "Statement of Organization," in an electronic format, prepared by the Department, to be filed along with the annual financial survey report, which shall include the following information, as of December 31 of each calendar year prior to the filing:
 - (1) Name and address of the organization;
 - (2) A financial and public contact person, with title, address, telephone number, fax number, and e-mail address;
 - (3) A list of all health plans with which the organization maintains risk arrangements;
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- (4) Whether the organization is an Independent Practice Association (IPA), Medical Group, Foundation, other entity, or some combination thereof. If the organization is a foundation, identify each and every medical group within the foundation, and whether any of those medical groups independently qualifies as a risk-bearing organization as defined in Health and Safety Code section 1375.4(g);
 - (5) Whether the organization is a professional corporation, partnership, not-for-profit corporation, sole proprietor, or other form of business;
 - (6) The name, business address and principal officer of each of the organization's affiliates as defined in Title 28, California Code of Regulations, section 1300.45(c)(1) and (2);
 - (7) Whether the organization is partially or wholly owned by a hospital or hospital system;
 - (8) A matrix listing all major categories of medical care offered by the organization, including, but not limited to, anesthesiology, cardiology, orthopedics, ophthalmology, oncology, obstetrics/gynecology and radiology.
 - (A) Next to each listed category in the matrix, a disclosure of the primary compensation model (salary, fee-for-service, capitation, other) used by the organization to compensate the majority of providers of that category of care;
 - (9) An approximation of the number of enrollees served by the organization under a risk arrangement, pursuant to a list of ranges developed by the Department;
 - (10) Any Management Services Organization (MSO) that the organization contracts with for administrative services;
 - (11) The total number of contracted physicians in employment and/or contractual arrangements with the organization;
 - (12) Disclosure of the organization's primary service area (excluding out-of-area tertiary facilities and providers) by California county or counties;
 - (13) The identification of the organization's address, telephone number and website link, if available, where providers may access written information and instructions for filing of provider disputes with the organization's Dispute Resolution Mechanism consistent with requirements of section 1300.71.38 of Title 28, California Code of Regulations; and,
 - (14) Provide any other information that the Director deems reasonable and necessary, as permitted by law, to understand the operational structure and finances of the organization.
- (e) Submit a written verification for each report made under subsections (b), (c), and (d) of this section stating that the report is true and correct to the best knowledge and belief of a principal officer of the organization, and signed by a principal officer, as defined by section 1300.45(o) of Title 28, California Code of Regulations.
 - (f) Notify the Department and each contracting health plan no later than five (5) business days after discovering that the organization has experienced any event that materially alters its financial situation or threatens its solvency.
 - (g) Permit the Department to make any examination that it deems reasonable and necessary to implement Health and Safety Code section 1375.4, and provide to the Department, upon request, any books or records deemed relevant or useful to implementing this section for inspection and copying, as permitted by law.
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Authority: Sections 1344 and 1375.4, Health and Safety Code.
Reference: Section 1375.4, Health and Safety Code.

§ 1300.75.4.4. Confidentiality.

- (a) Financial and other records produced, disclosed or otherwise made available by an organization pursuant to Health and Safety Code section 1375.4, and to these Solvency Regulations shall be received and maintained on a confidential basis and protected from public disclosure, unless the Director makes a specific finding that the information can be released in a manner that does not adversely affect the integrity of the contract negotiation process; except that the organization's annual audited financial statement as required by section 1300.75.4.2(c) shall be permanently maintained on a confidential basis.
- (b) The Director has determined that the disclosure of the following information in the format provided below will not adversely affect the integrity of an organization's contract negotiation process and, therefore, will be made available to the public as follows:
- (1) Within 120 days following each reporting period due date, the Department of Managed Health Care (Department) will make the following information available, on its website, for public inspection:
- (A) A list of all provider organizations currently identified as risk-bearing organizations;
- (B) A list of all risk-bearing organizations that have submitted substantially complete financial survey forms, if required, and whether the risk-bearing organization's submission reflects that the organization has met or not met each of the Grading Criteria, as follows:
1. The designation of "met" to be assigned for each Grading Criteria met by the organization;
 2. The designation of "not met" to be assigned for each Grading Criteria not met by the organization;
 3. The disclosure of whether the organization has implemented and is compliant with a final CAP designed to remedy any deficiencies reported in the Grading Criteria;
 4. The relative working capital of each organization, consistent with section 1300.75.4(h), presented as a ratio of current assets divided by current liabilities;
 5. The relative tangible net equity (TNE) of each organization, consistent with section 1300.75.4(h), presented as a ratio of tangible net assets divided by total liabilities;
 6. Claims payment timeliness in a percentage format, consistent with section 1300.75.4.(h), reflecting the amount of claims that the organization is paying on a timely basis; and,
 7. To the extent feasible, each financial item described in paragraphs 1 through 5 shall be presented for both the current and the four previous reporting periods, following the effective date of these regulations.
- (C) A list of all "non-compliant" organizations that fail to substantially comply with the reporting obligations, including the submission of the financial survey reports specified in section 1300.75.4.2 of Title 28, California Code of Regulations; and
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- (D) All information contained in the Statement of Organization of a risk-bearing organization, except responses to sections 1300.75.4.2(d)(8)(A), (d)(14) and financial documentation provided pursuant to section 1300.75.4.2 (d)(4); and
 - (E) Comparative, aggregated data on all organizations, and information that enables consumers to assess an organization's relative financial viability in a format that does not identify any individual organizations and consistent with section 1300.75.4.4 of Title 28, California Code of Regulations.
- (c) Information received and maintained on a confidential basis pursuant to this section may be disclosed by the Director under the following circumstances:
- (1) To other local, state or federal regulatory or law-enforcement agencies in accordance with the law;
 - (2) When necessary or appropriate in any proceeding or investigation conducted by the Department to enforce the provisions of the Knox-Keene Act;
 - (3) In the event that an organization publicly questions or challenges the Department's decision to approve or disapprove an organization's proposed CAP submitted in accordance with section 1300.75.4.8 of Title 28 of the California Code of Regulations, the Department may release the relevant portions of the organization's financial information to explain the Department's decision; and,
 - (4) Upon a determination by the Director, pursuant to Health and Safety Code section 1375.4(b)(7), that the justification for the confidential treatment no longer exists, provided that the information that is disclosed is at least two (2) years old.

Note: Authority cited: Sections 1344 and 1375.4, Health and Safety Code.
Reference: Section 1375.4, Health and Safety Code.

1300.75.4.5. Plan Compliance.

- (a) Every plan that maintains a risk arrangement with an organization shall have adequate procedures in place to ensure:
- (1) That plan personnel review all reports and financial information made available pursuant to Health and Safety Code section 1375.4 and these Solvency Regulations as part of the plan's responsibility to evaluate and ensure the financial viability of its arrangements consistent with section 1300.70(b)(2)(H)(1) of Title 28, California Code of Regulations;
 - (2) That appropriate action(s) are taken following the Department's written notification to an organization's contracting health plan(s) that:
 - (A) The organization has failed to substantially comply with the reporting obligations specified in section 1300.75.4.2 of Title 28, California Code of Regulations, by failing to file a required periodic financial and organizational information disclosure, including the filing of an annual financial survey report based upon an audited financial statement prepared in accordance with generally accepted accounting principles (GAAP), or by failing to include significant portions of information on a required periodic financial organizational information disclosure;
 - (B) The organization has refused to permit the activities of the Department as specified in Health and Safety Code section 1375.4 or in these Solvency Regulations; or,
 - (C) The organization has failed to substantially comply with the requirements of a final CAP for a period of more than 90 days, as determined by the Department.
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- (3) Appropriate action shall include, but is not limited to, a prohibition on the assignment or addition of any additional enrollees to the risk arrangement with that organization without the prior written approval of the Director. The prohibition on assignments of additional enrollees to an organization pursuant to subsection (2) shall not apply to dependents of enrollees who are already under the risk-arrangement with the organization or to enrollees who selected the organization during an open enrollment or other selection period that was prior to the effective date of the prohibition on the assignment of additional enrollees. The prohibition on the assignment of additional enrollees shall take effect thirty (30) days after the date of Department's notification to the organization's contracting plan(s), and shall remain in effect until the Department notifies the organization's contracting health plan in writing that the organization's non-compliance has been remedied.
 - (4) That the plan complies with the corrective action process and cooperates in the implementation of a final CAP, including, but not limited to, implementing contingency plans for continuous delivery of health care services to plan enrollees served by the organization.
 - (5) That the plan shall advise the Department and the organization in writing within five (5) days of becoming aware: 1. that a contracting organization is not in compliance with the requirements of a final CAP, or 2. that an organization's conduct may cause the plan to be subject to disciplinary action pursuant to Health and Safety Code section 1386.
 - (6) That if a plan proposes to transfer plan enrollees receiving care from an organization that is compliant with a final CAP to alternative providers and the reassignment is based, in part, on the organization's failure to meet one or more of the Grading Criteria, the plan shall, prior to transferring enrollees from that organization, file with the Department a Block Transfer Filing pursuant to Health and Safety Code section 1373.65. In addition to all other criteria for reviewing block transfers, the Director may disapprove, postpone or suspend the plan's proposed transfer of enrollees if the department reasonably determines:
 - (A) That the proposed reassignment of enrollees will likely cause the organization's failure or result in the organization ceasing operations within three (3) months;
 - (B) That the organization has the financial and administrative capacity to provide timely access to care through an adequate network of qualified health care providers; and
 - (C) That the organization is not denying or delaying basic health care services or continuity of care for the plan's enrollees assigned to the organization.
 - (7) Notwithstanding subsection (6) of this section, nothing in these regulations shall limit or impair
 1. the Director's authority, consistent with Health and Safety Code sections 1367, 1373.65 (b) and 1391.5, to require a plan to reassign or transfer plan enrollees to alternate providers or organizations on an expedited basis to avoid imminent harm to enrollees;
 2. an enrollee's right to self-select a new provider; or
 3. the plan's ability to transfer individual enrollees assigned to a provider who terminates his/her relationship with the organization to ensure that the enrollee receives appropriate continuity of care.
- (b) Every contract involving a risk arrangement between a plan and an organization shall provide that an organization's failure to substantially comply with the contractual requirements required by these Solvency Regulations shall constitute a material breach of the risk arrangement contract. A plan shall not request or accept a waiver of any the contractual requirements set forth in these Solvency Regulations.
- (c) Within 30 days of notification pursuant to section 1300.75.4.5(a)(2)(C) of Title 28, California Code of Regulations, a plan shall submit to the Department a specific Provider Transition Plan for the deficient organization which provides for the continuity of care for plan enrollees served by the organization.
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- (d) Any failure of a plan to comply with the requirements of Health and Safety Code section 1375.4 and these Solvency Regulations shall constitute grounds for disciplinary action against the plan pursuant to Health and Safety Code section 1386.
- (e) The Director may seek and employ any combination of remedies and enforcement procedures provided under the Knox-Keene Act to enforce Health and Safety Code section 1375.4 and these Solvency Regulations.

Note: Authority cited: Sections 1344 and 1375.4, Health and Safety Code.
Reference: Section 1375.4, Health and Safety Code.

1300.75.4.7. Organization Evaluation.

- (a) Every contract involving a risk arrangement between a plan and an organization shall:
 - (1) Require the organization to comply with the Department of Managed Health Care's review and audit process, in determining the organization's satisfaction of the Grading Criteria; and
 - (2) Permit the Department to perform any of the following activities in conjunction with the plan's oversight process:
 - (A) Obtain and evaluate supplemental financial information pertaining to the organization when: 1. the organization fails to satisfactorily demonstrate its compliance with the Grading Criteria; 2. the organization experiences an event that materially alters its ability to remain compliant with the Grading Criteria; 3. the external party's review or audit process indicates that the organization may have insufficient financial capacity to continue to accept financial risk for the delivery of health care services consistent with the requirements of sections 1300.70(b)(2)(H)(1) of Title 28, California Code of Regulations; or 4. the Department receives information from complaints submitted to the HMO Help Center, health plan reporting, medical audits and surveys or any other source that indicates the organization may be delaying referrals or authorizations or failing to meet access standards for basic health care services based on financial considerations.

NOTE: Authority cited: Sections 1344 and 1375.4, Health and Safety Code.
Reference: Section 1375.4, Health and Safety Code.

1300.75.4.8. Corrective Action.

Every contract involving a risk arrangement between a plan and an organization shall require the plan and the organization to comply with a process, set forth in this regulation and administered by the Department, for the development and implementation of Corrective Action Plans (CAPs).

- (a) Unless the organization has proactively demonstrated to the Department's written satisfaction that necessary and prudent capital investments has or may cause a temporary deficiency in its TNE, working capital or cash-to-claims ratios and that it has implemented an appropriate business plan that will correct the deficiency within a reasonable time period without causing a deficiency in its claim payment timeliness, beginning with the financial survey submission filed for the third quarter of calendar year 2005, organizations reporting deficiencies in any of the Grading Criteria shall simultaneously submit a self-initiated CAP proposal, in an electronic format developed by the Department, to the Department and every plan with which the organization maintains a contract involving a risk arrangement that meets the following requirements:
 - (1) Identifies the Grading Criteria that the organization has failed to meet;
 - (2) Identifies the amount by which the organization has failed to meet the Grading Criteria;
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- (3) Identifies all plans with which the organization has contracts involving a risk arrangement, including the identification of the name, title, telephone and facsimile numbers, and postal and e-mail addresses for the person responsible at each contracting health plan for monitoring compliance with the final CAP;
 - (4) Describes the specific actions the organization has taken or will take to correct any deficiency identified in subsections (1) and (2) of this section. This description should include any written representations made by contracting health plans to assist the organization in the implementation of its CAP. The actions shall be appropriate and reasonable in scope and breadth depending upon the nature and degree of the deficiency, and acceptable to the Department;
 - (5) Describes the timeframe for completing the corrective action and specifies a schedule for submitting progress reports to the Department and the organization's contracting health plans. Except in situations where the organization can demonstrate to the Department's satisfaction and written approval that an extended period of time is necessary and appropriate to correct the deficiency, that:
 - (A) Timetables specified in the self-initiated CAP for correcting working capital deficiencies shall not exceed 12 months;
 - (B) Timetables specified in the self-initiated CAP for correcting tangible net equity (TNE) deficiencies shall not exceed 12 months;
 - (C) Timetables specified in the self-initiated CAP for incurred but not reported (IBNR) deficiencies shall not exceed three (3) months;
 - (D) Timetables specified in the self-initiated CAP for correcting claims timeliness deficiencies shall not exceed six (6) months;
 - (E) Timetables specified in the self-initiated CAP for correcting cash-to-claims ratio deficiencies shall not exceed twelve (12) months.
 - (6) Identifies the name, title, telephone and facsimile numbers, and postal and e-mail addresses for the person responsible at the organization for ensuring compliance with the final CAP; and
 - (7) Describe:
 - (A) the organization's patient record retention and storage policies;
 - (B) the procedures and the steps the organization will take to ensure that patient medical records are appropriately stored and maintained; and
 - (C) the procedures and the steps the organization will take to ensure that patient medical records will be readily available and transferable to patients in the event the organization ceases operations or the organization fails to meet its obligations set forth in the final CAP. At a minimum, an organization's patient medical records policies and procedures shall be consistent with existing laws relating to the responsibilities for the preservation and maintenance of medical records and the protection of the confidentiality of medical information.
- (b) To the extent possible, the self-initiated CAP proposal shall be set forth in a single document that addresses the concerns of all plans with which the organization maintains a contract that includes a risk arrangement.
- (c) Unless, within 15 days of the receipt of an organization's self-initiated CAP proposal, a contracting health plan provides written notice to the Department and the risk-bearing organization stating the
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reason for its objections and recommendations for revisions, the self-initiated CAP shall be considered a final CAP, subject to the Department's approval process as set forth in sections (g) and (h) below.

- (d) In the event that a contracting health plan files a written objection with the Department and the risk-bearing organization, the organization shall within twenty (20) days: (1) implement all corrective action strategies contained in its self-initiated CAP proposal that were not objected to by a contracting health plan; and (2) submit to each of its contracting health plans and the Department a revised CAP proposal that addresses the concerns raised by the objecting contracting health plan(s). To the extent possible, the revised CAP proposal shall be prepared as a single document that addresses the concerns of all plans with which the organization maintains a contract that includes a risk arrangement.
 - (e) Each contracting health plan shall have ten (10) days to submit to the organization and the Department its objections and recommended revisions, in an electronic format prepared by the Department, to the self-initiated revised CAP proposal.
 - (f) Within fifteen (15) days of receipt of any contracting health plans' objections and recommended revisions to the revised CAP proposal, the Department shall schedule a meeting ("CAP Settlement Conference") with the organization and all of its contracting health plans to discuss and reconcile the differences.
 - (g) Within seven (7) days of the CAP Settlement Conference, the organization shall submit a final self-initiated CAP proposal to all of its contracting health plans and the Department.
 - (h) Within ten (10) days of receipt of the organization's final self-initiated CAP proposal, the external party shall submit its recommendation to the Department to approve, disapprove or modify the organization's final self-initiated CAP proposal.
 - (i) Within ten (10) days of receipt of the external party's recommendation, the Department shall approve, disapprove or modify the organization's final self-initiated CAP proposal, which shall then become the final CAP. If the Department does not act upon the recommendations of the external party within ten (10) days, the external party's recommendation shall be deemed approved.
 - (j) A final CAP shall remain in effect until the organization demonstrates compliance with the requirements of the CAP, or the CAP expires in accordance with its own terms.
 - (k) In addition to the CAP requirements specified in subsection (a) above, the Department may direct an organization to initiate a CAP whenever it determines that an organization has experienced an event that materially alters its ability to remain compliant with the Grading Criteria or when the Department's review process indicates that the organization may lack sufficient financial capacity to meet its contractual obligations consistent with the requirements of section 1300.70(b)(2)(11)(1) of Title 28 of the California Code of Regulations.
 - (l) CAP Reporting:
 - (1) Each periodic progress report prepared pursuant to a final CAP shall be submitted to the Department and all plans with which the organization has a contract involving a risk arrangement, and shall include a written verification stating that the periodic progress report is true and correct to the best knowledge and belief of a principal officer of the organization, as defined by section 1300.45(o) of Title 28 California Code of Regulations.
 - (2) In addition to the quarterly progress reports specified in a CAP, every contract involving a risk arrangement between a plan and an organization shall require that:
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- (A) the organization advise the plan and the Department in writing within five (5) days if the organization experiences an event that materially alters the organization's ability to remain compliant with the requirements of a final CAP; and
 - (B) the organization, upon the Department's request, provides additional documentation to the Department and its contracting plans to demonstrate the organization's progress towards fulfilling the requirements of a CAP.
- (3) Non-disclosure of CAP documentation and supporting work papers:
- (A) All draft, preliminary and final CAPs and all CAP compliance reports required by a final CAP, including supporting documentation and supplemental financial information, submitted to the Department shall be received and maintained on a confidential basis and shall not be disclosed, except for the information outlined in section 1300.75.4.4(c)(3) to any party other than the organization and, as necessary, to its contracting health plans that are participating in the CAP.

Note: Authority cited: Sections 1344 and 1375.4, Health and Safety Code.
Reference: Section 1375.4, Health and Safety Code.

SAMPLE
