

**STANDARD AGREEMENT**

STD. 2 (REV. 5-91)

APPROVED BY THE  
ATTORNEY GENERAL

CONTRACT NUMBER

00-91547

AM. NO.

TAXPAYER'S FEDERAL ID. NUMBER

94-6000532

THIS AGREEMENT, made and entered into this 1st day of **January, 2001** in the  
State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE

AGENCY

Chief, Program Support Branch

Department of Health Services

, hereafter called the State, and

CONTRACTOR'S NAME

County of San Mateo

, hereafter called the Contractor.

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State services and materials as follows: *(Set forth services to be rendered by Contractor, amount to be paid Contractor, time for performance or completion, and attach plans and specifications, if any.)*

**Project Title:** AIDS MEDI-CAL WAIVER PROGRAM**1. TERM**

The term of this agreement shall be from January 1, 2001 through December 31, 2003.

**2. MAXIMUM AMOUNT PAYABLE**

The maximum amount payable per eligible client served under this agreement shall not exceed \$13,209 per year. No funds are being encumbered under this agreement in that the Contractor's Claims will be paid via the State's Medi-Cal Fiscal Intermediary (currently Electronic Data Systems).

**CONTINUED ON 12 SHEETS, EACH BEARING NAME OF CONTRACTOR AND CONTRACT NUMBER.**

The provisions on the reverse side hereof constitute a part of this agreement.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA		CONTRACTOR				
AGENCY Department of Health Services		CONTRACTOR (if other than an individual, state whether a corporation, partnership, etc.) County of San Mateo				
BY (AUTHORIZED SIGNATURE) ▷ For		BY (AUTHORIZED SIGNATURE) ▷				
PRINTED NAME OF PERSON SIGNING Edward Stahlberg		PRINTED NAME OF AND TITLE OF PERSON SIGNING Michael D. Nevin, President, Board of Supervisors				
TITLE Chief, Program Support Branch		ADDRESS (C/o Lisa Mancini, Health Services Manager) 225 West 37 <sup>th</sup> Avenue, Room 133, San Mateo, CA 94403				
AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 0	PROGRAM / CATEGORY (CODE AND TITLE) Clearing Account	FUND TITLE General		<i>Department of General Services Use Only</i>		
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$ 0	(OPTIONAL USE) Community Based Care / Medi-Cal Waiver Program					
TOTAL AMOUNT ENCUMBERED TO DATE \$ 0	ITEM 4260-111-0001	CHAPTER 52	STATUTE 2000			FISCAL YEAR 2000-2001
OBJECT OF EXPENDITURE (CODE AND TITLE)						
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.		T.B.A. NO.	B.R. NO.			
SIGNATURE OF ACCOUNTING OFFICER ▷ Accounting signature not required		DATE				

CONTRACTOR  STATE AGENCY  DEPT. OF GEN. SER.  CONTROLLER

### 3. INCORPORATION OF ATTACHMENTS

A. The following Exhibits are attached, incorporated herein, and made a part hereof by this reference:

- (1) Exhibit A, entitled "Program Services/Scope of Work", consisting of seven pages.
- (2) Exhibit A(F), entitled "Additional Provisions", consisting of twenty-nine pages.
- (3) Exhibit B, entitled "Schedule of Reimbursement Rates and Other Limits", consisting of one page and any subsequent updates.
- (4) Exhibit C, entitled "AIDS Medi-Cal Waiver Program, Nursing Facility Level of Care (NF/LOC)", effective May 1997, consisting of one page.
- (5) Exhibit D, entitled "Subcontract Model Elements", consisting of two pages.

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

- (1) Joint AIDS Case Management Protocols, revised August 2000, consisting of twenty-four pages.

The Office of AIDS will make a good-faith effort to provide the Contractor thirty days advance written notice of said changes or revisions.

- (2) Medi-Cal Provider Manual Part 1 – Medi-Cal Program and Eligibility and Part 2 – Outpatient Services for AIDS Waiver Program.
- (3) State Medicaid Operations Manual, Part 4, Section 4440 et seq.
- (4) In addition to the California statutes and regulations, the Contractor shall comply with:
  - (a) 48 Code of Federal Regulations (CFR), Chapter 1, Subchapter E, Part 30
  - (b) 42 CFR, Section 441.300 et seq.
  - (c) 45 CFR, Subtitle A, Part 74

**4. LIMITATION OF STATE LIABILITY**

Payment for performance by the Contractor may be dependent upon the availability of future appropriations by the Legislature for the purpose of this agreement. No legal liability on the part of the State for any payment may arise under this agreement until funds are made available and until the Contractor receives notice of availability, which will be confirmed in writing.

**5. FUNDING REDUCTION IN SUBSEQUENT FISCAL YEARS**

If funding for any subsequent fiscal year is reduced or deleted by the Legislature, for purposes of this program, the State shall have the option to either:

- A. Terminate this agreement pursuant to Paragraph 7, Cancellation.
- B. Offer a contract amendment to the Contractor to reflect the reduced funding for this agreement, pursuant to Paragraph 11 (C).

**6. PAYMENT PROVISIONS**

A. Claims

- (1) The Contractor shall submit claims to the State's designated Fiscal Intermediary in accordance with instructions provided in the Medi-Cal Provider Manual.
- (2) The State shall reimburse for appropriately prepared and timely submitted claims for services provided to eligible Waiver clients.

B. New Waiver Contractors

A new Waiver Contractor shall not provide services and no payment shall be authorized under this contract until the Contractor receives a letter of approval from the State to begin providing services. A new Waiver Contractor is an agency that has not previously contracted with the State under the Waiver Program or has had a Waiver Contract which has been terminated.

C. Financial Risk for Services

- (1) The Contractor shall assume the full financial risk of providing the required Administrative and Case Management Services in exchange for the monthly fixed Administrative Fee and Case Management Fee for each Waiver client.
- (2) The Contractor shall assume the full financial risk of administrative and Waiver services provided to Waiver clients who prove to be ineligible or whose Waiver services costs exceed the Individual Cost Cap.

7. **CANCELLATION**

- A. This agreement may be terminated without cause by either party upon 30 days advance written notice to the other party. Such notification shall state the effective date of termination.
- B. This agreement may be terminated by the State immediately upon determination of noncompliance with the terms of this agreement. Such notification shall be given in writing and shall state the reason(s) for termination.
- C. The Contractor shall upon termination immediately seek alternative service arrangements for existing Waiver clients and provide for the orderly transition to alternative care options in the community.
- D. In the event of such termination, either for convenience or cause, in full or in part, Contractor shall take immediate steps to reduce the incurrence of costs.
- E. The Contractor has the right to request an informal grievance hearing by the Department upon termination of this agreement.
- F. The suspension or revocation of the license, certification, or registration of the Contractor or any Subcontractor shall be grounds for termination of the Contractor or that Subcontractor from participating in the AIDS Waiver Program, when such license, certification, or registration is required for Waiver Program participation.
- G. The State may terminate the agreement due to program changes.

**8. STATE CONTRACT MANAGER**

The Community Based Care Section Health Program Advisor is designated as the Contract Manager for the State. All questions, correspondence, reports or other communications arising from this agreement shall be directed to the Health Program Advisor at the following address:

California Department of Health Services  
Office of AIDS  
Community Based Care Section  
Attention: **Sandy Morgan**, Health Program Advisor  
P.O. Box 942732  
Sacramento, CA 94234-7320

The State reserves the right to change the Health Program Advisor at any time, and will notify the Contractor of such change within ten working days. The State shall immediately notify the Contractor in writing of any change of address.

**9. CONTRACTOR'S CONTRACT MANAGER/PROJECT DIRECTOR**

The Contractor shall designate a Project Director to act as Contract Manager and serve as the primary representative of the Contractor. The Project Director is responsible for all technical matters under this agreement and for assuring compliance with the terms of this agreement.

The Contractor shall notify the State immediately in writing when a new Project Director is designated. The State reserves the right to approve any subsequent Project Director.

**10. SUBCONTRACTS FOR DIRECT CLIENT SERVICES**

**A. Direct Services**

The Contractor shall not, as provider of case management, also be provider of other Waiver services to the same client except with prior written approval from the State. This prohibition applies to any person or entity related to or affiliated with the Contractor, in which the Contractor has a substantial financial interest as defined in Section 12 of this contract, or any person or entity which has a financial interest in the Contractor.

B. Selection Process

- (1) The Subcontractor selection process shall be based upon equitable criteria, provide for adequate publicity, screen out potential Subcontractors who are not qualified to provide the needed services, and provide for Subcontracts with the lowest responsible and responsive bidder(s). The State reserves the right to request a substitution of any Subcontractor if the State determines that it is in the best interest of the State.
- (2) Contractor shall verify that the Subcontractor and Subcontractor staff meet licensing and certification requirements on an annual basis. A copy of such license shall be retained in the Contractor's record.
- (3) Subcontracts for Case Management services must be signed by the Contractor and Subcontractor before providing the service to a Case Management client.
- (4) Contractor shall pay subcontractor invoices within thirty calendar days of Contractor receipt of payment from State.

C. Subcontracts

- (1) Subcontracts shall incorporate the requirements of the prime contract/agreement which are relevant to the services provided by the Subcontractor(s). The Contractor shall notify the State immediately upon termination of any Subcontractor(s).
- (2) The Contractor shall submit to the State a listing which identifies the name of the Subcontractor(s), the method by which the Subcontractor(s) was selected, and the total funding to be paid to the Subcontractor(s) by January 31, 2001. The State reserves the right to disapprove any Subcontractor.

D. Model Subcontract

Each subcontract for services, reimbursed in whole or in part under this contract, shall conform to the approved model format as contained in Exhibit D. The model subcontract also shall comply with requirements listed in paragraph 5 of Exhibit A (F).

**11. GENERAL**

**A. Hold Harmless**

The Contractor shall hold the State harmless from any administrative or legal action occurring because of the failure of the Contractor to maintain personnel records and practices in accordance with the provisions of this contract and State or federal laws or regulations. Additionally, the Contractor shall hold the State harmless from any negotiations, agreements, administrative or legal action pertaining to its personnel practices or policies.

**B. Severance and Acquiescence**

- (1) In the event any provision of this agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- (2) In the event it shall be determined that the State has waived or acquiesced to the breach of any provision of this agreement, such waiver or acquiescence shall not relieve the Contractor of any subsequent or other obligation under that or any other provision hereof.

**C. Contract Amendment**

Should either party, during the life of this agreement, desire to change this agreement, such changes shall be proposed in writing to the other party who will, within 30 calendar days of receipt of the request, accept or reject the proposed changes in writing. Once accepted, this agreement shall be amended to provide the change mutually agreed upon.

**D. Licensure and Certification**

The Contractor and employees, and its Subcontractors and employees, shall comply with all federal, state and local laws, rules and regulations pertinent to their operations and shall verify and keep in effect any and all licenses, permits, notices, and certificates as required. The Contractor and its Subcontractors shall further comply with all laws applicable to wages and hours of employment, occupational safety, and to fire, safety, health and sanitation.

E. Insurance

- (1) Prior to the commencement of any work and at all times during this contract, the Contractor shall maintain a general comprehensive insurance policy, including provision for errors and omissions insurance, to cover damages to persons or property caused by the Contractor's employees, agents, or volunteers or occurring on the Contractor's premises.
- (2) Contractor shall name the State as additional insured on its general comprehensive insurance policy.
- (3) Contractor shall produce a certification of such insurance to the State prior to commencement of any work on this contract.

F. Research

The Contractor shall obtain written approval from the State before allowing research or evaluation of existing data (for example, client records).

The Contractor shall obtain written approvals from the State and the Committee for the Protection of Human Subjects before allowing research or evaluation involving clients (for example, through face-to-face or telephone interviews, or questionnaires in person or by mail). Forms for informed consent and release of information must be available and signed prior to implementation of any research or evaluation.

G. Publicity

The Contractor shall not release any proposed publicity without the advance written permission of the State. The State may, in its sole discretion, approve or reject any proposed publicity, or may require specified modifications to proposed publicity.

**12. DISCLOSURE, CONFLICT OF INTEREST**

A. Disclosure

- (1) The Contractor shall comply with Federal Regulations 42 CFR, Section 455.104 (Disclosure by providers and fiscal agents: Information on ownership and control), 42 CFR, Section 455.105 (Disclosure by providers: Information related to business transactions), and 42 CFR, Section 455.106 (Disclosure by providers: Information on persons convicted of crimes).



- (2) The Contractor shall disclose any purchases, leases, or contracts for services, equipment, supplies, or real property from any entity in which any of the following persons has a Substantial Financial Interest:
  - (a) Any person or entity having a Substantial Financial Interest in the Contractor.
  - (b) Any director, officer, partner, trustee, or employee of the Contractor.
  - (c) Any member of the immediate family of any person designated in subparagraph (1) of this paragraph.
  
- (3) Substantial Financial Interest is the ownership of:
  - (a) Common Stock
  - (b) Preferred Stock
  - (c) Warrants
  - (d) Options
  - (e) Loans
  - (f) Partnership interests
  - (g) Debt instruments
  - (h) Any ownership interest which consists of, or is convertible to, equity investments in this Contractor or this Contractor's Subcontractor(s) or subcontract(s). Ownership interest in terms of fair market value shall not be less than the greater of:
    - (1) \$1,000, or
    - (2) Five percent or more of total fair market value of all equity investments in the entity, including ownership interests convertible to such investments.

B. Avoidance of Conflict of Interest by Contractor

- (1) The Contractor shall make all reasonable efforts to ensure that no conflict of interest exists for its officers, agents, or employees. The Contractor shall prevent employees, consultants, or members of governing bodies from using their position for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business or other ties.

- (2) In the event that the State determines that a conflict of interest situation exists, any increase in costs(s) associated with the conflict of interest may be disallowed and such conflict may constitute grounds for termination of this contract. This provision shall not be construed to prohibit employment of persons with whom the Contractor's officers, agents and employees have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with employment of any other qualified applicant on a merit basis.
- (3) The Contractor shall furnish the State with a current list of corporate officers and Board of Directors annually. This list shall include the individual's name, address, telephone number, and position. The Contractor shall notify the State in writing of any change to the list within ten days of the change. The Contractor shall furnish the State with a copy of the corporation's bylaws.
- (4) This paragraph shall not be interpreted as affecting in any way the responsibilities of the Contractor or any party under any other laws pertaining to conflict of interest, including, but not limited to, sections 5227 and 5233 of the California Corporations Code. Nothing in this paragraph shall be interpreted as limiting the rights of the State or any other party with regard to actual or potential conflict of interest situations.

**13. CHILD SUPPORT COMPLIANCE ACT AND ACKNOWLEDGEMENT**

Effective January 1, 1999, by signing this agreement that exceeds \$100,000, the Contractor acknowledges that:

- A. The Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable State and Federal laws relating to child and family support enforcement, including , but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- B. The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department (EDD).

- C. Questions about the New Employee Registry and reporting requirements are to be directed to EDD.

**14. YEAR 2000 COMPLIANCE REQUIREMENTS**

The Contractor represents and warrants fault-free performance in processing of date and date related data (including, but not limited to, calculating, comparing, and sequencing) by all hardware, software, and firm products delivered and used under this agreement, individually and in combination, upon installation. Fault-free includes the manipulation of this data with dates prior to, through and beyond January 1, 2000, and shall be transparent to the user.

**15. PROHIBITED USE OF STATE FUNDS FOR SOFTWARE**

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

**16. CONFIDENTIALITY OF INFORMATION**

This provision is in addition to provision 19, entitled Confidentiality of Information appearing in Exhibit A(F).

- A. Permission by DHS to disclose data on one occasion shall not authorize the Contractor or its personnel or agents to further disclose such data on another occasion.
- B. Public Health records relating to any program activity, service, or category referenced in this contract containing personally identifying information, which were developed or acquired by local public health agencies, shall be confidential and shall not be disclosed, except as otherwise provided by law for public health purposes, by court order, or pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator.

**17. PURCHASING/PROCUREMENT RULES**

Provisions 3a and 3b in Additional Provisions Exhibit A(F) are amended to read as follows:

- "a. Units of local government, public entities (including the Universities of California and California State University and auxiliary organizations and/or Foundations thereof), and state or federal agencies, whether acting as a contractor/subcontractor, may use their existing procurement systems to secure all activities, supplies, equipment (e.g., *non-expendable items with a unit cost of ~~\$500~~ **\$5000** or more and a useful life expectancy of ~~four or more years~~ **one year or more***, including EDP/ADP, telecommunications, and motor vehicles), and services related to such purchases that are required in performance of this contract, without regard to dollar limit, subject to the provisions in paragraphs e through i of this section. *The provision in paragraphs b, c, and d of this section may also apply, if purchases are sub-delegated to subcontractors that are nonprofit organization, for-profit entities or private vendors.*
- b. All other entities (nonprofit organizations, for-profit entities, or private vendors), whether acting as a contractor or subcontractor, may use their existing procurement systems to secure articles, supplies, equipment (e.g., *non-expendable items with a unit cost of ~~\$500~~ **\$5000** or more and a useful life expectancy of ~~four or more years~~ **one year or more***, including EDP/ADP, telecommunications and motor vehicles), and services related to such purchases that are required in performance of this contract. Equipment procurement shall not exceed an annual maximum limit of \$50,000, subject to the provisions in paragraphs c through i of this section. *The provisions in paragraph a of this section may also apply, if purchases are sub-delegated to subcontractors that are units of local government, public entities, state or federal agencies.*"

**18. DEBARMENT AND SUSPENSION REQUIREMENTS**

Provision 31 in Additional Provisions Exhibit A(F) is amended to read as follows:

"Contractor agrees to comply with the debarment and suspension requirements as found in ~~7~~ **45** Code of Federal Regulations, Part ~~3017~~ **76**, or as amended."

**19. OWNERSHIP/DISPOSITION/INVENTORY OF EQUIPMENT PURCHASED/REIMBURSED WITH CONTRACT FUNDS OR FURNISHED BY THE STATE**

Provisions 4a and 4e in Additional Provisions Exhibit A(F) are amended to read as follows:

- "a. All equipment of any kind, ~~as defined in section 3 paragraph a~~ **with a unit cost of \$500 or more and a life expectancy of more than one year and certain theft sensitive items (regardless of cost)**, purchased/reimbursed with contract funds or furnished by the State under the terms of this contract and not fully consumed in performance of this contract shall be considered state equipment and the property of the State.
- e. Equipment, ~~as defined in section 3 paragraph a~~, purchased/reimbursed with contract funds or furnished by the State under the terms of this contract, shall only be used for performance of this contract."

EXHIBIT A

**SCOPE OF WORK**

**A. CASE MANAGEMENT**

- (1) The Contractor shall provide Case Management to Waiver clients in accordance with this agreement and as defined in The Joint AIDS Case Management Protocols, and:
  - (a) Gather and maintain information which supports Waiver client eligibility
  - (b) Obtain signed consent from individuals served under this contract for release of information
  - (c) Prior to utilizing funds provided through the Waiver program, make maximum use of all other Federal, State, local and other funds, programs and resources, family, other health coverage, SSI/SSP, Medicare and Medicaid (including In-Home Support Services (IHSS) and Adult Day Health Care.
  - (d) Monitor individuals served under this contract at a minimum, once a month by telephone and every 60 days by face-to-face contact
  - (e) Coordinate the provision of services to the client, including, but not limited to:
    - (1) Case Management (by a team of nurse case manager and social worker)
    - (2) Attendant Care
    - (3) Homemaker services
    - (4) Psycho-social counseling
    - (5) In-home skilled nursing (includes infusion therapy)
    - (6) Non-emergency medical transportation
    - (7) Specialized medical equipment and supplies and minor physical adaptations to the home
    - (8) Nutritional supplements and home delivered meals
    - (9) Nutritional counseling
    - (10) Supplements for infants and children in Foster Care
  - (f) Hold monthly client case conferences with the Core Case Management Team
  - (g) Subcontract with appropriately licensed and qualified agencies or individuals for services provided to the client as part of this contract, such as in-home skilled nursing care, in-home attendant care, homemaker services, psycho-social counseling and nutritional counseling
- (2) The Contractor shall develop, implement and maintain current, written policies and procedures for:

- (a) Client enrollment and disenrollment
- (b) Waiting list
- (c) Non-emergency medical transportation
- (d) Retention and confidentiality of client records (including access, release, storage and disposal)
- (e) Client grievances
- (f) Continuity of Case Management services during expected and unexpected absences of Core Case Management Staff
- (g) Assuring that all public and private health insurance coverage is exhausted prior to using Waiver funds (cost avoidance)
- (h) Admission and services to clients to residential facilities

**B. CLIENT ELIGIBILITY**

- (1) The Contractor shall perform a Medi-Cal and Waiver eligibility evaluation on each prospective client. After enrollment onto the Waiver, the Contractor shall evaluate Medi-Cal eligibility monthly, and Waiver eligibility bi-monthly, in accordance with the eligibility criteria established herein. A notation of continuing Medi-Cal eligibility shall be in each client's chart.
- (2) Each Waiver client must meet all of the following criteria:
  - (a) Be Medi-Cal eligible. The Medi-Cal Aid Code must have: 1) federal financial participation of at least 50%, and 2) full benefits, excluding those in Long Term Care or those who are restricted (e.g. restricted to emergency room or pregnancy only). Recipients may or may not have a Share of Cost (SOC), as this by itself is not a determining factor. May not be enrolled in a Medi-Cal Managed Care Plan in those counties designated as "2-plan counties and in the AIDS Medi-Cal Waiver;
  - (b) Have a written diagnosis from client's attending physician of symptomatic HIV disease or AIDS with symptoms related to current HIV-related disease;
  - (c) For adult clients, have a Cognitive and Functional Ability Scale rating (K score) of 60 or less; for pediatric clients, be classified as 'A,' 'B,' or 'C' using the CDC Classification system for HIV in Children under 13 Years of Age in lieu of the Cognitive and Functional Ability rating;
  - (d) Have exhausted other coverage for health care benefits similar to those available under the AIDS Waiver prior to utilization of AIDS Waiver services;
  - (e) Not be simultaneously enrolled in the AIDS Case Management Program;

- (f) Not be simultaneously enrolled in the Medi-Cal Hospice Program or other Medi-Cal Waiver Program. (may be simultaneously enrolled in Medicare Hospice);
- (g) Be certified by physician to meet the Nursing Facility Level of Care as described in Title 22, California Code of Regulations, Sections 51134-51135;
- (h) Have an attending physician willing to accept full professional responsibility for client's medical care;
- (i) Have a health status that is relatively stabilized so as to make in-home care appropriate, and;
- (j) Have a home setting that is safe for both the AIDS Waiver client and the providers of AIDS Waiver services.

**C. CLIENT INFORMING**

(1) Right to Choose

The Contractor shall inform clients of their right to choose to participate in the AIDS Waiver program and shall obtain a signed statement of choice.

(2) Discrimination Complaints

The Contractor shall provide the State with copies of all grievances from AIDS Waiver clients and Subcontractors, and all complaints alleging discrimination because of race, including color, creed, sex, religion, age, national origin, ancestry, marital status, sexual orientation, or physical or mental handicap.

(3) State Hearing Notice

The Contractor shall inform the AIDS Waiver client of the right to a State Hearing on adverse actions of the Contractor. The Contractor may be required to present its position at State Hearings, and shall implement the decision adopted by the State. Procedures for requesting a State Hearing are outlined and described in the State Hearing Notice form provided by the State.

(4) Notice of Action

The Contractor shall provide written notification to the AIDS Waiver client of any decision to deny or discontinue AIDS Waiver services, or when the client disputes a reduction in services, the reason for the decision and the client's right to appeal the decision. (MCWP2, Notice of Action, Denial/Reduction/Termination of AIDS Medi-Cal Waiver Benefits)



**D. EXCESSIVE SERVICES**

Neither the Contractor nor any Subcontractors shall arrange for or render any AIDS Waiver clients, or submit a claim for reimbursement for any waiver service(s) clearly in excess of accepted standards of practice or beyond a AIDS Waiver client's legitimate medical needs.

**E. SERVICE RECORDS**

The Contractor shall maintain for no less than three years after receiving final payment under this contract complete service records on each AIDS Waiver client which document at a minimum:

- (1) Diagnosis of symptomatic HIV disease or AIDS with current HIV-related symptoms;
- (2) Client enrollment/disenrollment;
- (3) Other coverage and eligibility for other programs;
- (4) Consents;
- (5) Grievance and Fair Hearing information;
- (6) Client assessments and reassessments;
- (7) Service plans and subsequent updates;
- (8) Face-to-face and telephone contacts;
- (9) Case conferences;
- (10) Authorization and verification of purchased services, and;
- (11) Client Medi-Cal eligibility verification.

**F. CONFIDENTIALITY**

- (1) Client records relating to any program activity, or service executed under this contract containing personally identifying information, which were developed or acquired by the Contractor shall be confidential and shall not be disclosed, except as otherwise provided by law for public health purposes or pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator.
- (2) The Contractor shall maintain signed statements of confidentiality for employees and volunteers who have access to client files of individuals served under this contract.

**G. PERSONNEL POLICIES AND PROCEDURES**

The Contractor shall:

- (1) Maintain written personnel policies and procedures which address:
  - (a) Work hours
  - (b) Overtime, raises and fringe benefits

- (c) Vacation, sick and other leave allowances
- (d) Hiring, promotional, and disciplinary action policies
- (e) Employee grievances
- (f) New employee orientation

These policies and procedures shall be made available to all employees.

- (2) Maintain personnel records for each employee paid under this contract which include:
  - (a) Terms of employment
  - (b) Application and resume
  - (c) Duty statement
  - (d) Probationary reports
  - (e) Tuberculosis screening documents
  - (f) Statement of confidentiality
  - (g) Time sheets signed by employee and supervisor
- (3) Maintain signed statements of confidentiality for employees and volunteers who have access to client files of individuals served under this contract.
- (4) Document that all staff are free of communicable tuberculosis. Tuberculosis screening must be performed at initial employment. Tuberculosis screenings are required annually and apply to all AIDS Waiver employees or volunteers who are at a site where clients receive services, including case management. They also apply to agency staff paid for by other funds or sources who provide services to AIDS Waiver clients.

## H. STAFFING

The Contractor shall:

Employ professional staff, qualified by education and experience, to carry out the requirements of this contract at the appropriate staff-to-client ratio as specified in the Joint AIDS Case Management Protocols. The Contractor agrees to maintain current duty descriptions and curriculum vitae on all positions and to provide them to the State upon request. The Contractor shall obtain prior written State authorization to employ personnel who do not meet the staff qualifications identified in the Joint AIDS Case Management Protocols, but who may have similar qualifications. The Contractor shall develop and implement procedures to monitor and document the qualifications, training and experience of caregiver staff on a routine basis.

**I. QUALITY IMPROVEMENT/QUALITY MANAGEMENT (QI/QM)**

The Contractor shall:

- (1) Implement a QI/QM program to continually evaluate and improve the quality of services provided under this contract.
- (2) Designate a QI/QM coordinator.
- (3) Submit a QI/QM plan including the name of the QI/QM coordinator to the State by October 31 of each year covered under this contract. At a minimum the QI/QM plan shall include:
  - (a) Indicators of quality;
  - (b) Frequency indicators monitored;
  - (c) Standards for compliance;
  - (d) Name and title of Contractor's employee designated to receive QI/QM findings, and;
  - (e) Name and title of Contractor's employee designated responsible for corrective action.
- (4) Submit a summary of the results of QI/QM monitoring with quarterly reports required under this contract.

**J. FISCAL**

The Contractor shall develop, implement and maintain written fiscal policies and procedures which address:

- (1) Tracking of services ordered, billed and delivered;
- (2) Tracking of costs of services (excluding administrative) for each client to assure that the \$13,209 spending cap per client is not exceeded;
- (3) Separation of duties for accounting staff;
- (4) Identification of expenditures by program, program components and/or budgetary category, and;
- (5) Financial statements being prepared and made available to the Case Management staff (for client services portion) and the Board of Directors or County Board of Supervisors on a monthly basis.

**K. PROHIBITION OF REBATE, REFUND OR DISCOUNT**

Neither the Contractor nor any Subcontractors shall offer, give, furnish, or deliver any rebate, refund, commission, preference, patronage dividend, discount, or any other gratuitous consideration, in connection with the rendering of AIDS Waiver services to any Waiver client. Neither the Contractor nor Subcontractor shall solicit, request, accept, or receive any rebate, refund, commission, preference, patronage dividend, discount, or any other gratuitous consideration in connection with the rendering of Waiver services to any Waiver client.

**L. QUARTERLY AND FINAL PROGRESS REPORTS**

The Contractor shall complete and submit progress and final reports by the due dates specified below. Reports shall be due 30 calendar days after completion of each quarter unless otherwise specified. Progress Report Due Dates are as follows, unless other arrangements have been authorized.

<u>Progress Report Period</u>	<u>Due Date</u>
01/01/01 - 03/31/01	04/30/01
04/01/01 - 06/30/01	07/31/01
07/01/01 - 09/30/01	10/31/01
10/01/01 - 12/31/01	01/31/02
01/01/02 - 03/31/02	04/30/02
04/01/02 - 06/30/02	07/31/02
07/01/02 - 09/30/02	10/31/02
10/01/02 - 12/31/02	01/31/03
01/01/03 - 03/31/03	04/30/03
04/01/03 - 06/30/03	07/31/03
07/01/03 - 09/30/03	10/31/03
10/01/03 - 12/31/03	01/31/04

Progress reports shall be submitted in accordance with the prescribed format provided by the State, and any revision thereto, which is incorporated and made a part hereof by this reference. The State may provide a revised progress report format in accordance with changing programmatic needs without an official amendment to this agreement.

STATE OF CALIFORNIA  
DEPARTMENT OF HEALTH SERVICES

**ADDITIONAL PROVISIONS**

**(FOR FEDERALLY FUNDED SUBVENTION AID/LOCAL ASSISTANCE AND  
COST REIMBURSEMENT CONTRACTS/GRANTS)**

**1. FEDERAL EQUAL OPPORTUNITY CLAUSE**

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, or age. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, physical or mental handicap, or age. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or the State, setting forth the provisions of the Equal Opportunity clause and the Rehabilitation Act of 1973. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin, physical or mental handicap, or age, and the rights of applicants and employees.
- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, physical or mental handicap, or age.
- c. The Contractor will send to each labor union or representative of workers with which he or she has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or worker's representative of the Contractor's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of the Rehabilitation Act of 1973 and of the Federal Executive Order No. 11246 as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the requirements of this Equal Opportunity clause or with any federal rules, regulations, or orders which are referenced in this clause, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order



No. 11246 as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- g. The Contractor will include the provisions of paragraphs a through g in every *subcontract* or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, or Section 503 of the Rehabilitation Act of 1973, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or the State may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the State, the Contractor may request in writing to the State, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

## 2. TRAVEL AND PER DIEM

Any reimbursement for necessary travel and per diem shall be at rates currently in effect, as established by the Department of Personnel Administration, for similar state employees. Exceptions to these rates may be approved by the State upon the verification of a statement submitted by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior written authorization from the State.

## 3. PURCHASING/PROCUREMENT RULES

- a. **Units of local government, public entities (including the Universities of California and California State University and auxiliary organizations/foundations thereof), and state or federal agencies, whether acting as a contractor and/or subcontractor, may use their existing procurement systems to secure all articles, supplies, equipment (e.g., nonexpendable items with a unit cost of \$500 or more and a useful life expectancy of four or more years, including EDP/ADP, telecommunications, and motor vehicles), and services related to such purchases that are required in performance of this contract, without regard to dollar limit, subject to the provisions in paragraphs e through i of this section. The provisions in paragraphs b, c, and d of this section may also apply, if purchases are subdelegated to subcontractors that are nonprofit organizations, for-profit entities or private vendors.**
- b. **All other entities (nonprofit organizations, for-profit entities, or private vendors), whether acting as a contractor or subcontractor, may use their existing procurement systems to secure articles, supplies, equipment (e.g., nonexpendable items with a unit cost of \$500 or more and a useful life expectancy of four or more years, including EDP/ADP, telecommunications, and motor vehicles), and services related to such purchases that are required in performance of this contract. Equipment procurement shall not exceed an annual maximum limit of \$50,000, subject to the provisions in paragraphs c through i of this section. The provisions in paragraph a of this section may also apply, if purchases are subdelegated to subcontractors that are units of local government, public entities, state or federal agencies.**
- c. **All other entities (nonprofit organizations, for-profit entities, or private vendors), whether acting as a contractor or subcontractor, shall use procurement systems that meet the following standards:**
  - (1) **Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee,**

officer, or agent shall participate in the selection, award, or administration of a procurement contract in which, to his or her knowledge, he or she has a financial interest.

- (2) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
  - (3) Procurements shall be conducted in a manner that provides for all of the following:
    - (a) Avoidance of the purchasing of unnecessary or duplicate items.
    - (b) Solicitations for capital expenditures (equipment) shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
    - (c) The taking of positive steps to utilize small, minority, women, or veteran owned businesses.
- d. **To secure equipment above the annual maximum limit of \$50,000**, the Contractor shall make arrangements through the appropriate Department of Health Services (DHS) program contract manager, to have all remaining equipment purchased through the DHS Purchasing Unit by way of the Department of General Services, Office of Procurement. The cost of equipment purchased by or through the State shall be deducted from the funds available in this contract. Contractor shall submit to the DHS Purchasing Unit a list of equipment specifications for those items which the State must procure. The State may pay the vendor directly for such arranged equipment purchases and title to the equipment will remain with the State. The equipment will be delivered to the Contractor's address, as stated on the face of the contract, unless the Contractor notifies the State, in writing, of an alternate delivery address.
- e. Prior written authorization from the appropriate DHS program contract manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for articles, supplies, equipment, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by the State, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
- f. In special circumstances, defined by the State, the State may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. The State reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that the State determines to be unnecessary in carrying out performance under this contract.
- g. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this contract. The State reserves the right to request copies of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
- h. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids, and other information used in vendor selection, for inspection or audit by the State. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit by the State.

- i. The State may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under paragraphs a and/or b of this section by giving the Contractor no less than 30 calendar days written notice.

**4. OWNERSHIP/DISPOSITION/INVENTORY OF EQUIPMENT PURCHASED/REIMBURSED WITH CONTRACT FUNDS OR FURNISHED BY THE STATE**

- a. All equipment of any kind, as defined in section 3, paragraph a, purchased/reimbursed with contract funds or furnished by the State under the terms of this contract and not fully consumed in performance of this contract shall be considered state equipment and the property of the State.
- b. Title to state equipment shall not be affected by its incorporation or attachment to any property not owned by the State.
- c. Unless otherwise stipulated, the State shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or subcontractor's facility which may be affected by the removal of any state equipment.
- d. The Contractor and/or subcontractor shall maintain and administer, according to state directives and sound business practices, a program for the proper use, maintenance, repair, protection, insurance, and preservation of state equipment.
- e. Equipment, as defined in section 3, paragraph a, purchased/reimbursed with contract funds or furnished by the State under the terms of this contract, shall only be used for performance of this contract.
- f. Contractor shall submit an annual inventory of equipment, as defined in section 3, paragraph a, purchased/reimbursed with contract funds or furnished by the State under the terms of this contract. Include in that inventory, said equipment in the Contractor's possession and/or in the possession of a subcontractor. The State will prescribe the inventory format and may supply applicable forms to be used for this purpose.
- g. Within 90 calendar days prior to the termination or end of this contract, the Contractor shall provide a final inventory of equipment to the State and shall at that time query the State as to the requirements, including the manner and method, of returning state equipment to DHS. Final disposition of equipment shall be at state expense and according to state instructions. Property disposition instructions shall be issued by the State immediately after receipt of the final equipment inventory.
- h. **Motor Vehicles**
  - (1) If motor vehicles are purchased/reimbursed with contract funds or furnished by the State under the terms of this contract, within 30 calendar days prior to the termination or end of this contract, the Contractor and/or subcontractor shall return such vehicles to the State and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to the State.
  - (2) If motor vehicles are purchased/reimbursed with contract funds or furnished by the State under the terms of this contract, the State shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or subcontractor may only use said vehicles for performance and under the terms of this contract.



- (3) The Contractor and/or subcontractor agree that all operators of motor vehicles, purchased/reimbursed with contract funds or furnished by the State under the terms of this contract, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed with contract funds or furnished by the State under the terms of this contract, the Contractor and/or subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this contract or any period of contract extension during which any vehicle remains in the Contractor's and/or subcontractor's possession:

(a) **Automobile Liability Insurance**

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

- (b) The Contractor and/or subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the State.
- (c) The Contractor and/or subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this contract or until such time as the motor vehicle is returned to the State.
- (d) The Contractor and/or subcontractor agree to provide, at least 30 days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this contract, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or subcontractor must provide evidence, that any required certificates of insurance contain the following provisions:
- [1] The insurer will not cancel the insured's coverage without giving 30 calendar days prior written notice to the State (Department of Health Services).
  - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this contract and any extension or continuation of this contract are concerned.
  - [3] The insurance carrier shall notify the State of California Department of Health Services, in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but no limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to the contract number for which the insurance was obtained.
- (f) The Contractor and/or subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General

Services, Office of Insurance and Risk Management. The Contractor shall be notified by the State, in writing, if this provision is applicable to this contract.

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

## 5. REQUIREMENTS APPLICABLE TO SUBCONTRACTS FOR SERVICES

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. For subcontracts for services exceeding \$5,000, Contractors shall obtain at least three bids or justify a sole source award.
  - (1) The Contractor must provide in its request for authorization, all particulars necessary for evaluating the necessity or desirability of incurring such cost.
  - (2) The State may identify the information needed to fulfill this requirement.
- b. The State reserves the right to approve or disapprove the selection of subcontractors, require the substitution of subcontractors, and order the termination of subcontracts entered into in support of this contract.
- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of the State. The State may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by the State.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this contract and shall, upon request by the State, make said copies available for approval, inspection, or audit.
- e. Sole responsibility rests with the Contractor to ensure that subcontractors are paid in a timely manner.
- f. The Contractor is responsible for all performance requirements under this contract even though performance may be carried out through a subcontract.
- g. The Contractor is responsible for a subcontractor's actions or failure to take action in fulfilling the requirements of this contract.
- h. When entering into consulting services contracts with the State, Contractor may be required to supply budget detail for each subcontractor and/or each major subcontracted activity under this contract.
  - (1) Budget detail format and submission requirements will be prescribed by the State.
  - (2) Methods of including budget detail in this contract, if applicable, will be prescribed by the State.
  - (3) Any subcontractor budget detail displayed in this contract, or incorporated by reference, is included for information purposes only.

Changes to a subcontractor's identity or subcontract budget detail may be made with the mutual consent of the State and the Contractor and said changes shall not require the processing of a formal amendment to this contract.

- i. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this contract.
- j. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

*(Subcontractor Name)* agrees to maintain and preserve, until three years after termination of *(Contract Number)* and final payment from the State, and to permit the State or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract."

- k. Unless otherwise stipulated in writing by the State, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this contract.
- l. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 25, 32, 36, and 37.

#### 6. INCOME RESTRICTIONS

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

#### 7. EXAMINATION OF ACCOUNTS, AUDITS, AND RECORDS

- a. The Contractor and/or subcontractor shall maintain books, records, documents, and other evidence, accounting procedures, and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this contract, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this clause.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this contract and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction by the State, State of California Bureau of State Audits or any of its duly authorized representatives, including the Comptroller General of the United States.
- c. The Contractor and/or subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this contract, and (2) for such longer period, if any, as is required by applicable statute, by any other clause of this contract, or by subparagraphs (1) or (2) below.
  - (1) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
  - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until

completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.

## **8. INSPECTION**

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

## **9. FUNDING AVAILABILITY**

### **a. Federal contract funds.**

- (1) It is mutually understood between the parties that this contract may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the contract were executed after that determination was made.
- (2) This contract is valid and enforceable only if sufficient funds are made available to the state by the United States Government for the fiscal years covered by the term on this contract. In addition, this contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this contract in any manner.
- (3) It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this contract shall be amended to reflect any reduction in funds.
- (4) The Department has the option to void or cancel the contract with 30 days advance written notice or to amend the contract to reflect any reduction in funds.

### **b. State contract funds committed prior to July 1 of any fiscal year.**

- (1) Contractor understands that this contract may have been written and executed prior to the passage of a Governor's annual budget in order to avoid program and fiscal delays which could occur if the contract were executed after such event.
- (2) This contract is valid and enforceable only if sufficient funds are made available by the appropriate budget act for the purposes of this program. In addition, this contract is subject to any additional restrictions, limitations, or conditions enacted by the Legislature and contained in a budget bill or any statute enacted by the legislature that may affect the provisions, terms, or funding of this contract in any manner.
- (3) If sufficient funds are not appropriated for this program and contract, this contract shall be invalid and of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this contract, and the Contractor shall not be obligated to perform any provisions of this contract.

**10. STATE NONDISCRIMINATION CLAUSE AND REQUIREMENTS**

- a. During the performance of this contract, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractors and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California code of Regulations, Title 2, Section 7285.0. et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other contract.
- b. Contractor shall include the nondiscrimination and compliance provisions of paragraph (a) in all subcontracts to perform work under the contract.
- c. The Contractor will not discriminate in the provision of services against any person with protected status as provided by state and federal law and described in paragraph a.
- d. For the purpose of this contract, distinctions made on the basis of a person's protected status as noted in paragraph a include, but are not limited to, the following: denying a participant any service or providing a benefit to a participant which is different, or is provided in a different manner or at a different time or place from that provided to other participants under this contract; subjecting a participant to segregation or separate treatment in any matter related to his or her receipt of any service; restricting a participant in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; treating a participant differently from others in determining whether he or she satisfied any admission, enrollment quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or benefit.
- e. The Contractor will take affirmative action to ensure that intended beneficiaries are provided services without regard to their protected status as noted in paragraph a.
- f. The Contractor agrees that complaints alleging discrimination in the delivery of services by the Contractor or his or her subcontractor because of a person's protected status as noted in paragraph a will be resolved by the State through the Department of Health Services' Affirmative Action/Discrimination Complaint Process.
- g. The Contractor shall, subject to the approval of the Department of Health Services, establish procedures under which service participants are informed of their rights to file a complaint alleging discrimination or a violation of their civil rights with the Department of Health Services.
- h. The Contractor shall operate the program or activity in such a manner that it is readily accessible to and usable by mentally or physically handicapped persons pursuant to 45 Code of Federal Regulations, Parts 84, Sections 84.21 and 84.22.
- i. The Contractor shall keep records, submit required compliance reports, and permit state access to records in order that the State can determine compliance with the nondiscrimination

requirements pursuant to 45 Code of Federal Regulations, Parts 80, 84, and 90, Sections 80.6, 84.61, and 90.42.

#### 11. FREEZE EXEMPTIONS

(Applicable only to local governmental and public entities.)

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

#### 12. AMERICANS WITH DISABILITIES ACT REQUIREMENTS

By signing this contract, Contractor assures the state that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

#### 13. RIGHTS IN DATA

- a. **Subject Data.** As used in this clause, the term "Subject Data" means writings, sound recordings, pictorial reproductions, drawings, designs or graphic representations, procedural manuals, forms, diagrams, work flow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are first produced or developed under this contract. The term does not include financial reports, cost analyses, and similar information incidental to contract administration.
- b. **Federal Government and State Rights.** Subject only to the provisions of paragraph c, below, the Federal Government and State may use, duplicate, or disclose in any manner and for any purpose whatsoever, and have or permit others to do so, all Subject Data delivered under this contract.
- c. **License to Copyrighted Data.** In addition to the Federal Government and State rights as provided in paragraph b, above, with respect to any subject data which may be copyrighted, the Contractor and applicable subcontractor agrees to and does hereby grant to the Federal Government and State a royalty-free, nonexclusive, and irrevocable license throughout the world to use, duplicate, or dispose of such data in any manner for State or Federal Government purposes and to have or permit others to do so. Provided, however, that such license shall be only to the extent that Contractor now has, or prior to completion or final settlement of this contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.
- d. **Relation to Patents.** The State reserves a license on patent rights in any contract involving research or developmental, experimental, or demonstration work with respect to any discovery or invention which arises under this contract.

- e. **Marking and Identification.** The Contractor shall mark all Subject Data with the number of this contract and the name and address of the Contractor or subcontractor who generated the data. The Contractor shall not affix any restrictive markings upon any Subject Data, and if such markings are affixed, the Federal Government or State shall have the right at any time to modify, remove, obliterate, or ignore any such markings.
- f. **Subcontractor Data.** Whenever any Subject Data is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in subcontract without alteration, and no other clause shall be used to enlarge or diminish the Federal Government's or State's rights in the subcontractor Subject Data.
- g. **Deferred Ordering and Delivery of Data.** The Federal Government or State shall have the right to order, at any time during the performance of this contract or within two years from either acceptance of all items (other than data) to be delivered under this contract or termination of this contract, whichever is later, any Subject Data and any data not called for in the schedule of this contract but generated in performance of the contract and the Contractor shall promptly prepare and deliver such data as is ordered. If the principal investigator is no longer associated with the Contractor, the Contractor shall exercise its best efforts to prepare and deliver such data as is ordered. The Federal Government's or State's right to use data delivered pursuant to this paragraph g shall be the same as the rights in Subject Data as provided in paragraph b, above. The Contractor shall be relieved of obligation to furnish data pertaining to an item obtained from a subcontractor upon the expiration of two years from the date he accepts such items. When data, other than Subject Data, is delivered pursuant to this paragraph g, payment shall be made, by equitable adjustment or otherwise, for converting the data into the prescribed form, reproducing it or preparing it for delivery. The terms of such payment shall be agreed upon in writing by the Contractor and the State and/or Federal Government, whichever ordered the production of the data.

#### 14. **DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA**

- a. The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the state employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.

State and local government agencies holding federal contracts of \$10,000 or more shall also list all their suitable openings with the appropriate office of the state employment service, but are not required to provide those reports set forth in paragraphs d and e.

- c. Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.
- d. The reports required by paragraph b of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in a State, with the central office of that state employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for the on-the-job training under 39 U.S.C. 1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The Contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the Federal Contracting Officer, the State, or the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.
- e. Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each state where it has establishments of the name and location of each hiring location in the state. As long as the Contractor is contractually bound to these provisions and has so advised the state system, there is no need to advise the state system of subsequent contracts. The Contractor may advise the state system when it is no longer bound by this contract clause.
- f. This clause does not apply to the listing of employment openings which occur and are filled outside the 50 states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.
- g. The provisions of paragraphs b, c, d, and e of this clause do not apply to openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.
- h. As used in this clause:
  - (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and nonproduction: plant and office; laborers and mechanics; supervisory and nonsupervisory; technical and executive, administrative, and professional openings that are compensated on a salary basis of less than \$25,000 per year. This term includes full-time employment, temporary employment of more than three days' duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances, an employment opening may not be suitable for listing, including such situations where the needs of the Federal Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the



requirement of listing would otherwise not be for the best interest of the Federal Government.

- (2) "Appropriate office of the state employment service system" means the local office of the federal/state national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.
  - (3) "Openings which the Contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.
  - (4) "Openings which the Contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the contractor proposes to fill from union halls which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of his employees.
- i. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Federal Secretary of Labor issued pursuant to the Act.
  - j. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Federal Secretary of Labor issued pursuant to the Act.
  - k. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director of the Office of Federal Contract Compliance Programs, provided by or through the contracting Officers or State. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.
  - l. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the Contractor is bound by terms of the Vietnam Era Veteran's Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.
  - m. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Federal Secretary of Labor issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

## 15. CLEAN AIR AND WATER

- a. (Applicable only if the contract is not with a sole source vendor of products or services, or if it exceeds \$5,000.)

The Contractor agrees under penalty of perjury (it, he, she) is not in violation of any order or resolution which is not subject to review promulgated by the State Air Resources Board or an air pollution district.

The Contractor agrees under penalty or perjury (it, he, she) is not subject to cease and desist order which is not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions, or is not finally determined to be in violation of provisions of federal law relating to air or water pollution.

- b. (Applicable only if the contract or subcontract exceeds \$100,000 or the contract is not otherwise exempt under 40 CFR 15.5.)

The Contractor agrees as follows:

To comply with all the requirements of Section 114 of the Clean Air Act as amended (42 U.S.C. 7401 et seq., as amended by Public Law 95-95), and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., as amended by Public Law 92500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued to implement those Acts before the award of this contract.

#### 16. USE OF MINORITY, WOMEN, AND DISABLED VETERAN BUSINESS ENTERPRISES

(Applicable to any contract subject to M/W/DVBE goal participation or good faith effort compliance. Not applicable to local government or public entities or entities exempted by DHS.)

- a. It is a federal policy to award a fair share of contracts to small, minority, and women owned business firms. The State Legislature has declared that a fair proportion of the total purchases and contracts or subcontracts for property and services for the State be placed with minority, women, and disabled veteran owned business enterprises.
- b. All M/W/DVBE participation attachments, however labeled, completed as a condition of bidding, contracting or amending a subject contract are incorporated herein and made a part of this contract by this reference.
- c. Contractor agrees to use any and all proposed M/W/DVBEs, as identified in previously submitted M/W/DVBE attachments, unless the Contractor submits a written request for substitution of a like vendor. All requests for substitution must be approved by the State, in writing, prior to using a substituted M/W/DVBE subcontractor, supplier or vendor.

Requests for substitution must be directed to the program funding this contract and must contain: (1) identity of the firm to be substituted and its M/W/DVBE status, (2) reason for the substitution, and (3) identity of the replacement firm and its M/W/DVBE status.

- d. Contractor agrees the State will have the right to review, obtain, and copy all records pertaining to performance of the contract. Contractor agrees to provide the State or its delegatee with any relevant information requested and shall permit the State or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with State M/W/DVBE goal or good faith effort compliance. Contractor further agrees to maintain such records for a period of three (3) years after final payment is received under the contract.

#### 17. PRINTING

If printing or other reproduction work of more than an incidental and minor dollar amount (e.g., \$25,000 or 10 percent of the contract total, whichever is less) is a reimbursable item in this contract,

it shall be printed or produced by the State Printer. The State Printer may, at his sole option, elect to forego said work and delegate the work to the private sector. If the State Printer prints or produces said work, or the State obtains the printing or other work through another source, the cost will be deducted from said contract amount. This requirement does not apply to normal in-house copying necessary for routine business matters of the Contractor.

**18. PRIOR APPROVAL OF TRAINING SEMINARS, WORKSHOPS, OR CONFERENCES**

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

**19. CONFIDENTIALITY OF INFORMATION**

- a. The Contractor and his or her employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this contract or persons whose names or identifying information become available or are disclosed to the Contractor, his/her employees, agents, or subcontractors as a result of services performed under this contract, except for statistical information not identifying any such person.
- b. The Contractor, his/her employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this contract.
- c. The Contractor, his/her employees, agents, or subcontractors shall promptly transmit to the State all requests for disclosure of such identifying information not emanating from the client or person.
- d. The Contractor shall not disclose, except as otherwise specifically permitted by this contract or authorized by the client, any such identifying information to anyone other than the State without prior written authorization from the State.
- e. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

**20. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

(Not applicable if Contractor is a public entity.)

Contractor, by signing this contract, does swear under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board.

**21. DOCUMENTS AND WRITTEN REPORTS**

Any document or written report prepared as a requirement of this contract shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all

contracts and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

## **22. RESOLUTION OF DIRECT SERVICE CONTRACT DISPUTES**

- a. If the Contractor believes there is a dispute or grievance between the Contractor and the State, the procedures set forth in Chapter 2.1, Sections 20201 through 20205, of Title 22, of the California Code of Regulations, shall be followed.
- b. If the Contractor wishes to appeal the decision of the Deputy Director for Public Health or his/her designee, the Contractor shall follow the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Subchapter 2.5, commencing with Section 251, California Code of Regulations.)
- c. Disputes arising out of an audit or examination of a contract not covered by subdivision (a) of Section 20204, of Chapter 2.1, Title 22, of the California Code of Regulations, and for which no procedures for appeal are provided in statute, regulation or the contract shall be handled in accordance with the procedures identified in Sections 51016 through 51047, Title 22, California Code of Regulations.

## **23. FINANCIAL AND COMPLIANCE AUDIT OF NONPROFIT ENTITIES**

(Applicable only if Contractor is a private, nonprofit entity)

- a. Definitions within this paragraph are defined in Section 38040 of the Health and Safety Code, which, by this reference, is made a part hereof.
- b. Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. The audit shall be conducted in accordance with the requirements specified in the Federal Office of Management and the Budget (OMB) Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations."
- c. References to "Federal" in OMB Circular A-133 shall be considered to mean "Federal and/or State" in contracts where state funds are present either alone or in conjunction with federal funds.
- d. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year. Two copies of the audit report shall be delivered to the state program funding this contract. The report shall be due within 30 days after the completion of the audit.
- e. If the contractor receives less than \$25,000 per year from the State, the audit shall be conducted biennially, unless there is evidence of fraud or other violation of state law in connection with this contract. This requirement takes precedence over the OMB A-133 section which exempts from federal audit requirements any nonprofit institution receiving less than \$25,000 per year.
- f. The cost of such audit may be included in the funding for this contract up to the proportionate amount this contract represents of the Contractor's total revenue.
- g. The State, or its authorized designee including the Bureau of State Audits, is responsible for conducting contract performance audits which are not financial and compliance audits.
- h. Nothing in this contract limits the State's responsibility or authority to enforce state law or regulations, procedures, or reporting requirements arising pursuant thereto.

- i. Nothing in this paragraph limits the authority of the State to make audits of this contract, provided however, that if independent audits arranged for by the Contractor meet generally accepted governmental auditing standards, the State shall rely on those audits and any additional audit work shall build upon the work already done.
- j. The State may, at its option, direct its own auditors to perform the single audit described in OMB Circular A-133. The State's auditors shall meet the independence standards specified in Government Auditing Standards. The audit shall be conducted in accordance with OMB Circular A-133 so as to satisfy all state and federal requirements for a single organization wide audit.

#### 24. CONTRACT AMENDMENTS

This contract may be amended by mutual agreement between the parties as stipulated in the body of this contract. The amendment may be subject to the approval of the Department of General Services.

#### 25. FEDERAL CLINICAL LABORATORY IMPROVEMENT AMENDMENTS (CLIA) REQUIREMENTS

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

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

#### 26. CONFLICT OF INTEREST—CURRENT AND FORMER STATE EMPLOYEES

##### a. Current State Officers and Employees

- (1) Contractor shall not utilize in the performance of this contract any state officer or employee in the state civil service or other appointed state official unless the employment, activity, or enterprise is required as a condition of the officer or employee's regular state employment. Employee in the state civil service is defined to be any person legally holding a permanent or intermittent position in the state civil service.
- (2) If any state officer or employee is utilized or employed in the performance of this contract, Contractor shall first obtain written verification from the State that the employment, activity, or enterprise is required as a condition of the officer's, employee's, or official's regular state employment and shall keep said verification on file for three years after the termination of this contract.
- (3) Contractor may not accept occasional work from any currently employed state officer, employee, or official.
- (4) If Contractor accepts volunteer work from any currently employed state officer, employee, or official, Contractor may not reimburse, or otherwise pay or compensate, such person for expenses incurred, including, without limitation, travel expenses, per diem, or the like, in connection with volunteer work on behalf of contractor.

- (5) Contractor shall not employ any state officers, employees, or officials who are on paid or unpaid leave of absence from their regular state employment.
- (6) Contractor or anyone having a financial interest in this contract may not become a state officer, employee, or official during the term of this contract. Contractor shall notify each of its employees, and any other person having a financial interest in this contract that it is unlawful under the Public Contract Code for such person to become a state officer, employee, or official during the term of this contract unless any relationship with the Contractor giving rise to a financial interest, as an employee or otherwise, is first terminated.
- (7) Occasional or one-time reimbursement of a state employee's travel expenses is not acceptable.

b. Former State Officers and Employees

- (1) Contractor shall not utilize in the performance of this contract any formerly employed person of any state agency or department that was employed under the state civil service, or otherwise appointed to serve in the State Government, if that person was engaged in any negotiations, transactions, planning, arrangement, or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency or department. This prohibition shall apply for a two-year period beginning on the date the person left state employment.
- (2) Contractor shall not utilize within 12 months from the date of separation of services, a former employee of the contracting state agency or department if that former employee was employed in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to the employee leaving state service.

c. Failure to Comply with Subparts a or b

If Contractor violates any provision of subparts a or b above, such action by Contractor shall render this contract void, unless the violation is technical or nonsubstantive.

**27. SINGLE AUDIT ACT OF 1984** (applicable only if Contractor is a governmental entity)

In accordance with Public Law 98-502 and OMB Circular A-128, it is stipulated between the parties hereto that:

- a. The cost of the single audit will be charged to the federal assistance program providing funds for this contract on a "Fair Share" basis. The amount chargeable to federal assistance programs for the cost of the single audit is calculated based on the ratio of federal expenditures to total expenditures of the Contractor. The State's share of the single audit cost under this contract is based upon the ratio of federal funds received under this contract to total federal funds received by the Contractor each fiscal year.
- b. The Contractor shall include a clause in any contract the Contractor enters into with the audit firm doing the single audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single audit for the Contractor.
- c. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

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

**28. CONTRACTOR NAME CHANGE**

Contractor shall provide written notice to the State at least 30 days prior to any changes to the Contractor's current legal name.

**29. NOVATION**

If the Contractor proposes any novation agreement, the State shall act upon the proposal within 60 days after receipt of the written proposal. The State may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection may be made orally within the 60 day period, and confirmed in writing within five days.

**30. DRUG-FREE WORKPLACE**

Contractor certifies to the State that it will provide a drug-free workplace by doing all of the following:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying the actions that will be taken against employees for violations of the prohibition.
- b. Establishing a drug-free awareness program to inform employees about all of the following:
  - (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 drug counseling, rehabilitation, and employee assistance programs.
  - (4) The penalties that may be imposed upon employees for drug abuse violations.
- c. Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision a and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.
- d. Contractor agrees this contract may be subject to suspension of payments or termination of this contract, or both, and the contractor may be subject to debarment, in accordance with the requirements of the Government Code, Section 8350, et seq., if the Department determines that any of the following has occurred:
  - (1) The Contractor or Grantee has made a false certification.
  - (2) The Contractor violates the certification by failing to carry out the requirements of subdivisions a through c above.

**31. DEBARMENT AND SUSPENSION REQUIREMENTS**

Contractor agrees to comply with the debarment and suspension requirements as found in 7 Code of Federal Regulations, Part 3017, or as amended.

**32. ENVIRONMENTAL TOBACCO SMOKE CERTIFICATION**

(Applicable to contracts/grants and subcontracts/subawards, that have a start date of December 26, 1994, or later, and provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

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

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

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

Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into on or after December 26, 1994 which provide for children's services as described in the Act.

**33. COVENANT AGAINST CONTINGENT FEES**

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

**34. FINAL INVOICE—FINAL REPORT—RETENTION OF FUNDS**

(Applicable only if a final report is required by the contract)

The State may, at its discretion, withhold 10 percent (10%) of the face amount of the contract, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until receiving a final report that is satisfactory to the State.

**35. CONTRACTOR PERFORMANCE EVALUATION**

The State may, at its discretion, evaluate the performance of the Contractor at the conclusion of the contract. If performance is evaluated, the evaluation shall not be a public record, but may be placed on file with the Department of General Services. Negative performance evaluations may be



considered by the State prior to making future contract awards. Performance evaluations, may include, but not be limited to the following:

- (a) Whether the work or services were completed as specified.
- (b) The reasons for and amount of cost overruns, if any.
- (c) Whether the work or services met the specified quality standards.
- (d) Whether the Contractor fulfilled all contract requirements.
- (e) The factors outside the Contractor's control that may have caused performance difficulties.

### 36. OFFICIALS NOT TO BENEFIT

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

### 37. LIMITATIONS ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL ACTIONS AND RELATED DISCLOSURES

- a. Definitions. As used in this Exhibit.

"Agency," as defined in 5 U.S.C. 552(f), includes federal executive departments and agencies as well as independent regulatory commissions and government corporations, as defined in 31 U.S.C. 9101(1).

"Covered federal action" means any of the following federal actions:

- (1) The awarding of any federal contract;
- (2) The making of any federal grant;
- (3) The making of any federal loan;
- (4) The entering into of any cooperative agreement; and
- (5) The extension, continuation, renewal, amendment, or modification of any federal contract grant, loan, or cooperative agreement.

Covered federal action does not include receiving from an agency a commitment providing for the United States to ensure guarantee of a loan.

Indian tribe and tribal organizations have the meaning provided in Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in the Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with any covered federal action.

"Local government" means a unit of government in a state and, if chartered, established, or otherwise recognized by a state for the performance of a government duty, including a local

public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a postman in the Government under Title 5, U.S.C., including a position under a temporary appointment;
- (2) A member of the uniformed services as defined in Section 101(3), Title 37, U.S.C.;
- (3) A special government employee as defined in Section 202, Title 18, U.S.C.; and
- (4) An individual who is a member of a federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, U.S.C., Appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, state and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other federal law.

"Reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient" includes the Contractor or Grantee, and all subcontractors or subgrantees at any tier in connection with a federal contract, grant, or other federally funded activity. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other federal law.

"Regularly employed" means, with respect to an officer or employee of a person requesting or receiving a federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a state, and a multistate, regional, or interstate entity having governmental duties and powers.

b. Prohibition.

- (1) Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal

actions: The awarding of any federal contract, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) The prohibition does not apply as follows:

(a) Agency and legislative liaison by own employees.

- [1] The prohibition on the use of appropriated funds, in paragraph b(1), does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a federal contract if the payment is for agency and legislative liaison activities not directly related to a covered federal action.
- [2] For purposes of paragraph b(2)(a)[1], providing any information specifically requested by an agency or Congress is allowable at any time.
- [3] For purposes of paragraph b(2)(a)[1] of this section, the following agency and legislative liaison activities are allowable at any time only where they are not related to a specific solicitation for any covered federal action:
  - [a] Discussing with any agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,
  - [b] Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
- [4] For purposes of paragraph b(2)(a)[1] of this section, the following agency and legislative liaison activities are allowable only where they are prior to formal solicitation of any covered federal action:
  - [a] Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered federal action;
  - [b] Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,
  - [c] Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.
- [5] Only those activities expressly authorized by paragraph b(2)(a) are allowable under paragraph b(2)(a).

(b) Professional and technical services by own employees.

- [1] The prohibition on the use of appropriated funds, in paragraph b(1), does not apply in the case of any reasonable payment of reasonable compensation made to an officer or employee of a person requesting or receiving a federal contract or an extension, continuation, renewal, amendment, or modification of a federal contract if payment is for professional or technical services rendered directly in the preparation, submission or negotiation of any bid,

proposal, or application for that federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that federal contract.

[2] For purposes of paragraph b(2)(b)[1], professional and technical services shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice and analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission, or negotiation of a covered federal action.

[3] Requirements imposed by or pursuant to law as a condition for receiving a covered federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

[4] Only those services expressly authorized by paragraph b(2)(b) are allowable under paragraph b(2)(b).

(c) Reporting for own employees.

No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

(d) Professional and technical services by other than own employees.

[1] The prohibition on the use of appropriated funds, in paragraph b(1), does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that federal contract.

[2] For purposes of paragraph b(2)(d)[1], "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided

by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission, or negotiation of a covered federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission, or negotiation of a covered Federal action.

- [3] Requirements imposed by or pursuant to law as a condition for receiving a covered federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
  - [4] Persons other than officers or employees of a person requesting or receiving a covered federal action include consultants and trade associations.
  - [5] Only those services expressly authorized by paragraph b(2)(d) of this section are allowable under paragraph b(2)(d).
- (e) The prohibition on use of federal appropriated funds does not apply to influencing activities not in connection with a specific covered federal action. These activities include those related to legislation and regulations for a program versus a specific covered federal action. (55 Federal Regulation 24542 (June 15, 1990))

c. Certification and disclosure.

- (1) Each person (or recipient) who requests or receives a contract, subcontract grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by paragraph b of this Exhibit.
- (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form—LLL 'Disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract or grant or any extension or amendment of that contract or grant, which would be prohibited under paragraph b of this Exhibit if paid for with appropriated funds.
- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under

paragraph c(2). An event that materially affects the accuracy of the information reported includes:

- (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action; or
  - (b) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
  - (c) A change in the officer(s), employee(s), or Member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in paragraph c(1) of this section a contract, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or grant shall file a certification, and a disclosure form, if required, to the next tier above.
  - (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in paragraph (1) of this section. That person shall forward all disclosure forms to the state agency.
- d. Agreement. In accepting any contract, grant, subcontract, or subgrant subject to this Exhibit the recipient (and any person submitting an offer for such a contract or grant) agrees not to make any payment prohibited by law or this Exhibit.
- e. Penalties.
- (1) Any person who makes an expenditure prohibited under paragraph b of this Exhibit shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
  - (2) Any person who fails to file or amend the disclosure form to be filed or amended if required by this Exhibit, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
  - (3) Recipients may rely without liability on the representations made by their subcontractors or subgrantees in the certification and disclosure form.
- f. Cost allowability. Nothing in this Exhibit is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation. Conversely, costs made specifically unallowable by the requirements in this Exhibit will not be made allowable under any of the provisions of Part 31 of the Federal Acquisition Regulation.

**STATE OF CALIFORNIA  
DEPARTMENT OF HEALTH SERVICES  
CERTIFICATION REGARDING LOBBYING**

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

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

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

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

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

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Printed Name of person Signing for Contractor

\_\_\_\_\_  
Contract/Grant Number

\_\_\_\_\_  
Signature of Person Signing for Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

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

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

## DISCLOSURE OF LOBBYING ACTIVITIES

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

Approved by OMB  
0348-0046

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract  <input type="checkbox"/> b. grant  <input type="checkbox"/> c. cooperative agreement  <input type="checkbox"/> d. loan  <input type="checkbox"/> e. loan guarantee  <input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application  <input type="checkbox"/> b. initial award  <input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial filing  <input type="checkbox"/> b. material change  For Material Change Only:  Year _____ quarter _____  date of last report _____</p>
<p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Prime                      <input type="checkbox"/> Subawardee  Tier _____, if known:</p> <p style="text-align: center;">Congressional District, if known: _____</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p style="text-align: center;">Congressional District, if known: _____</p>	
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description:</p> <p style="text-align: center;">CFDA Number, if applicable: _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:</p>	
<p>10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): _____</p> <p style="text-align: center;">(attach Continuation Sheet(s) SF-LLL-A, if necessary)</p>		
<p>10. b. Name and Address of Lobbying Entity (if individual, last name, first name, MI): _____</p> <p style="text-align: center;">(attach Continuation Sheet(s) SF-LLL-A, if necessary)</p>		
<p>11. Amount of Payment (check all that apply):</p> <p>\$ _____    <input type="checkbox"/> actual    <input type="checkbox"/> planned</p>	<p>13. Type of Payment (check all that apply):</p> <p><input type="checkbox"/> a. retainer  <input type="checkbox"/> b. one-time fee  <input type="checkbox"/> c. commission  <input type="checkbox"/> d. contingent fee  <input type="checkbox"/> e. deferred  <input type="checkbox"/> f. other, specify: _____</p>	
<p>12. Form of Payment (check all that apply):</p> <p><input type="checkbox"/> a. cash  <input type="checkbox"/> b. in-kind, specify: Nature _____  Value _____</p>		
<p>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including Officer(s), Employee(s), or Member(s) Contacted, for Payment Indicated in Item 11:</p> <p style="text-align: center;">(Attach Continuation Sheet(s) SF-LLL-A, if necessary)</p>		
<p>15. Continuation Sheet(s) SF-LLL-A Attached:                      <input type="checkbox"/> Yes    <input type="checkbox"/> No</p>		
<p>16. Information requested through this form is authorized by Title 31, U.S.C., Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to Title 31, U.S.C., Section 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>		
<p>Signature _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No.: _____ Date: _____</p>		<p style="text-align: center;">Authorized for Local Reproduction Standard Form—LLL</p>



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

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipients at the initiation or receipt of a covered federal action, or a material change to a previous filing, pursuant to Title 31, U.S.C., Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with a covered federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state, and ZIP code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee," then enter the full name, address, city, state, and ZIP code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identified in Item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract grant or loan award number; the application/proposal control number assigned by the federal agency). Include prefixes, e.g. "RFP-DE-90401."
9. For a covered federal action where there has been an award or loan commitment by the federal agency, enter the federal amount of the award/loan commitment for the prime entity identified in Item 4 or 5.
10. (a) Enter the full name, address, city, state, and ZIP code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.  
(b) Enter the full names of the individual(s) performing services and include full address if different from 10.(a). Enter last name, first name, and middle initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all box(es) that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with federal officials, identify the federal official(s) or employee(s) contacted or the officer(s), employee(s), or member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and renewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**EXHIBIT B**  
**SCHEDULE OF REIMBURSEMENT RATES AND OTHER LIMITS**

**Federal Limits on Annual Statewide Unduplicated Client Enrollment:**

Calendar Year 2001.....3,300  
 Calendar Year 2002.....3,630  
 Calendar Year 2003.....4,000

Procedure	Procedure Code	Rate Effective	Maximum Rate
Case Management	Z5000	10/1/92	\$198.93/client/month
Skilled Nursing, RN	Z5002	8/1/00	\$40.57/hour*
Skilled Nursing, LVN	Z5004	8/1/00	\$29.41/hour*
Psychosocial Counseling	Z5006	10/1/92	\$33.48/hour*
Attendant Care	Z5008	8/1/00	\$18.90/hour*
Homemaker Services	Z5010	7/1/99	\$11.56/hour*
Medi-Cal Supplement for Infants and Children in Foster Care	Z5012	10/1/92	\$338/client/month
Specialized Medical Equipment & Supplies/Minor Physical Adaptations to the Home	Z5014	10/1/92	\$1,000/client
Non-emergency Medical Transportation	Z5016	10/1/92	\$40/client/month
Administrative Expenses, Hardcopy	Z5018	10/1/92	\$154.80/client/month
Administrative Expenses, CMC	Z5018-YV	10/1/92	\$157.80/client/month
Nutritional Counseling	Z5020	1/1/93	\$33.48/hour*
Nutritional Supplements/Home Delivered Meals	Z5022	1/1/93	\$150/client/month
Combined Waiver Services	Z5000-22 (excluding Z5018 and Z5018-YV)	10/1/92	\$13,209/client/year

\* Waiver agencies may bill up to an additional one (1) hour per visit for actual travel as long as doing so does not cause per procedure billing to exceed 24 hours on any date of service. \*Direct care service and travel time (per client, per service) are to be totaled during the billing period. Except for when there is one visit during the billing period, it is not permissible to round fractional hours per visit because this method results in excessive billing. The waiver agency and provider of service must maintain appropriate documentation that separately identifies the travel hours from the direct care service hours. This must include by month, the client name or identifier, the hourly rate billed, the number of hours billed, and the type of cost incurred (e.g., travel).

## EXHIBIT C

### AIDS MEDI-CAL WAIVER PROGRAM NURSING FACILITY LEVEL OF CARE (NF/LOC) Effective May 1997

To qualify for Nursing Facility care services, a client must have at the least a medical condition that needs an out-of-home protective living arrangement with 24-hour supervision and skilled nursing care or observation on an ongoing intermittent basis to abate health deterioration. Nursing Facility care services emphasize care aimed at preventing or delaying acute episodes of physical or mental illness and encouragement of individual client independence to the extent of his or her ability. Use the following description as a guide for determining appropriate placement:

1. The complexity of the client's medical problems is such that he or she requires skilled nursing care or observation on an ongoing intermittent basis and 24-hour supervision to meet his or her health needs.
2. Medications may be mainly supportive or stabilizing but still require professional nurse observation for response and effect on an intermittent basis.
3. Diet may be of a special type, clients may need assistance in feeding him/herself.
4. The client may require assistance or supervision in personal care, such as in bathing or dressing.
5. The client may need encouragement in restorative measures for increasing and strengthening his or her functional capacity to work toward greater independence.
6. The client may have some degree of vision, hearing or sensory loss.
7. The client may have limitation in movement.
8. The client may be incontinent of urine and/or bowels.
9. The client may exhibit some mild confusion or depression; however, his or her behavior must be stabilized to such an extent that it poses no threat to him/herself or others.

EXHIBIT D  
SUBCONTRACT MODEL ELEMENTS

Each subcontract for services, reimbursed in whole or in part under this contract, shall conform to the approved model format. The model subcontract shall include the following elements in the following order:

1. **Term of Contract:**  
The beginning and end dates, as well as methods of amendment and termination.
2. **Scope of Work:**  
A description of services to be performed by and responsibilities of the Subcontractor.
3. A provision that the Subcontractor is governed by and construed in accordance with all laws, regulations, and contractual obligations to which the Contractor is subject.
4. A provision that the Subcontractor shall keep all financial records pertaining to the goods and services furnished under the terms of the subcontract available for inspection, examination, or copying:
  - a) By representatives of the State and the United States Department of Health and Human Services
  - b) At all reasonable times at the Subcontractor's place of business, or other mutually agreeable location in California
  - c) For at least three years from the close of the fiscal year in which the Subcontract was in effect.

The records shall be organized and maintained in accordance with general business standards.
5. Full disclosure of the billing procedures and reimbursement rates.
6. A provision that the Subcontractor shall hold the State and individuals served under this contract harmless in the event the Contractor cannot or will not pay for services performed by the Subcontractor pursuant to the Subcontract. Refer to Standard Agreement, 1 (on the back of the Standard Agreement, STD. 2).
7. A provision that the Subcontractor shall submit no claim to, demand or otherwise collect reimbursement from, individuals served under this contract (or persons acting on their behalf) for any services reimbursed in whole or in part under this contract, except to collect third party co-payment or third party share of cost.

Exhibit D.  
SUBCONTRACT MODEL ELEMENTS

8. A provision that the Subcontractor shall accept Medi-Cal and CMP reimbursement rates as full reimbursement for services provided. Supplementation of existing rates from other funding sources is not allowable under current regulations.
9. A provision that the Subcontract may be terminated immediately with cause, or without cause by either party upon 30 days advance written notice to the other party.
10. A provision that the Subcontractor shall have procedures to prevent unauthorized disclosure of confidential information during acquisition, use, retention, and disposal of the information.
11. A provision that the Subcontractor shall comply with the non-discrimination provisions of this agreement.
12. A provision that the Subcontractor assumes full financial risk for services provided without authorization of the Nurse Case Manager.
13. A provision that training and preparation of the Subcontractor's employees shall conform to all waiver program requirements and that all required employee licenses are current.
14. Prior to the commencement of any work and at all times during this contract, the Subcontractor shall maintain a general comprehensive insurance policy, including provisions for errors and omissions insurance, to cover damages to persons or property caused by the Subcontractor's employees, agents, or volunteers or occurring on the Subcontractor's premises.
15. A provision that the Subcontractor shall maintain licensure and certification requirements at all times during the subcontract.
16. A provision that the Subcontractor shall comply with all requirements pertaining to Conflict of Interest, as set forth in the Contract, Paragraph 12 B. (1-4), entitled "Conflict of Interest."
17. A provision that Subcontractor shall comply with all requirements pertaining to tuberculosis screening as set forth in Exhibit A, G. (4).