



The California Managed Risk Medical Insurance Board

PO Box 2769

Sacramento, CA 95812-2769

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Board Members

Clifford Allenby, Chair
Richard Figueroa
Sophia Chang, M.D., M.P.H.
Samuel Garrison

Ex Officio Members

Jack Campana
Diana Dooley
Dale E. Bonner

**COMPETITIVE NEGOTIATION
Notice to Prospective Proposers**

May 16, 2011

The Managed Risk Medical insurance Board invites you to review and respond to this Competitive Negotiation (CN) entitled **11-001 EQRO**. In submitting your proposal, you must comply with these instructions.

Note that all agreements entered into with the State of California will include General Terms and Conditions and Contractor Certification Clauses but may be viewed and downloaded at internet site www.ols.dgs.ca.gov/standard+language.

In the opinion of Managed Risk Medical Insurance Board, this Competitive Negotiation is complete and without need of explanation. However, if you have questions, or should you need clarifying information, the contact person for this CN is:

Lilia Coleman
Managed Risk Medical Insurance Board
(916) 324-4695
LColeman@mrrib.ca.gov

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

Gina Van Nes
Procurement and Facilities Coordinator

Enclosures

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Solicitation for External Quality Review for the Healthy Families Program

I. INTRODUCTION

The California Managed Risk Medical Insurance Board (MRMIB) is seeking responses to this solicitation from External Quality Review Organizations (EQROs) to conduct External Quality Review (EQR) activities for the California Children's Health Insurance Program (CHIP), the Healthy Families Program.

II. BACKGROUND

MRMIB administers four health insurance programs for the State of California: the Major Risk Medical Insurance Program, Access for Infants and Mothers, the Pre-Existing Condition Insurance Plan and the Healthy Families Program (HFP). HFP is California's Children's Health Insurance Program (CHIP) and provides health, dental and vision coverage through a purchasing pool, which is financed through state and federal funds under Title XXI of the Social Security Act (SSA).

HFP benefits are provided by 25 health plans, six dental plans and three vision plans. This Solicitation concerns EQR activities for the HFP health plans and a consumer satisfaction survey of the dental plans. Information about HFP health and dental plans is in Attachment 2.

On February 4, 2009, President Obama signed into law the Children's Health Insurance Program Reauthorization Act (CHIPRA), Public Law 111-3. CHIPRA reauthorized CHIP under Title XXI of SSA. On October 21, 2009, the Centers for Medicare and Medicaid Services (CMS) provided specific guidance about the application of Quality Assurance Standards (section 403 of CHIPRA) to State CHIP managed care programs.

As described in State Health Official letter # 09-013, the CHIPRA requires that a contract between a managed care organization (MCO) and a State CHIP include an annual external review of the quality of care provided by the MCO. This review must be conducted by a qualified and independent EQRO in accordance with protocols developed by CMS. The EQRO must produce a detailed technical report each year that describes the manner in which the data from all activities were aggregated and analyzed, and conclusions drawn as to the quality, timeliness and access to the care furnished by the MCO.

Pursuant to the requirement for an EQR (Title XXI section 1932(c)(2) of SSA), MRMIB is issuing this Solicitation.

III. SCOPE OF WORK

This scope of work presents a general description of the type of work sought in this Solicitation. Please see Exhibit A for a more detailed listing of the specific tasks and deliverables to be provided. The EQRO will perform EQR, as described in 42 CFR Part 438, Subpart E and, in compliance with the most current guidance from CMS as to protocols applicable to EQR for CHIPs ("Protocols"). The current applicable CMS Protocols are titled "EQR Managed Care Organization Protocol" and can be found at

https://www.cms.gov/MedicaidCHIPQualPrac/07_Tools_Tips_and_Protocols.asp

The Proposer should refer to the Protocols for comprehensive descriptions of some of the activities covered by this Solicitation. Please note that MRMIB has incorporated additional EQR activities in this Solicitation that are not required by the Protocols. Upon release by CMS, regulatory changes or protocol additions or modifications that pertain to State CHIPs will be used to guide the EQR activities for HFP sought by this Solicitation.

The annual EQR activities will be completed during each calendar year (CY). Beginning in 2012, the EQRO will complete the assessment based on data from CY 2011. Please note that the scope of work described below and for which MRMIB is seeking proposals covers activities for a three-year EQR program.

Overview

The EQRO will provide an in-depth analysis of the quality of the health care and services provided by the health plans and evaluate the effectiveness of the health plans' internal quality improvement systems.

1. The EQRO shall conduct annual independent reviews of each contracted health plan for quality of care, timeliness of services, and access to services provided or arranged for by contracting health plans in compliance with the Protocols. The reviews will include, at a minimum:

- (a) Validation of at least two Performance Measures (PMs) as described in the Protocols.

MRMIB specifies the Healthcare Effectiveness Data and Information Set (HEDIS) PMs to be calculated by the health plans and the reporting requirements.

Attachment 3 lists the PMs to be calculated by the health plans in 2012. MRMIB requires the health plans to have HEDIS data audited by a National Committee on Quality Assurance (NCQA) HEDIS-certified auditor.

- (b) Validation of each statewide performance improvement project (PIPs), known as quality improvement projects (QIPs) in HFP, and each individual health plan QIP.

This will include an assessment of the study methodology, a verification of the study findings, and an overall evaluation of the validity and reliability of the QIPs.

- (c) Performance of a compliance review.

In addition to the areas identified in the Protocols, the compliance review should include an assessment of the appropriateness and effectiveness of the following

health plan processes: (a) case management, (b) disease management, (c) compliance with the referral and reporting of children with Serious Emotional Disturbances (pursuant to California Insurance Code Section 12693.61) and children who may be eligible for California Children's Services (pursuant to California Insurance Code Section 12693.62), (d) operational record keeping, (e) subscriber outreach and follow up, and (f) the integrity of information systems using Appendix Z of the Protocols.

MRMIB anticipates a three-year cycle for the compliance reviews. In year one, the EQRO will complete a full compliance review, make recommendations for remediation of non-compliant findings, and review health plan proposed Corrective Action Plans (CAPs) to attain compliance. In year two, the EQRO will review the implementation of the health plan CAP and make recommendations for those areas of performance not yet compliant (a modified CAP). Finally, in year three, the EQRO will review the implementation of the modified CAP and again make recommendations for a modified CAP for those areas not yet in compliance.

2. The EQRO will prepare an annual quality review report for each contracted health plan that comprehensively assesses the overall performance of the health plan in providing services to HFP subscribers in accordance with Federal Quality Assurance standards. The EQRO will also prepare an annual statewide performance evaluation report that will include conclusions drawn from the plan-specific quality reviews, as well as evaluations of and recommendations for improvement in MRMIB's implementation and periodic updating of its HFP Quality Assessment and Improvement Strategy.
3. As part of the Quality Assessment and Improvement Program, the EQRO will work with MRMIB and the health plans in the selection, implementation and evaluation of a statewide collaborative (QIP). The EQRO will provide technical assistance to the health plans in the selection, implementation and evaluation of health plan-specific QIPs.
4. The EQRO will provide a validation of encounter data. MRMIB anticipates a phased approach to the EQRO's validation of encounter data. In the first year, the EQRO will assess the MRMIB encounter data vendor's procedures for processing and validating health plan encounter data and identify any changes needed in the processes to meet CMS and industry standards. In the second phase, to be completed in year two and/or three, the EQRO will complete an encounter validation as requested by MRMIB and perform a follow-up assessment of the vendor and the health plans in those areas found to be non-compliant with MRMIB requirements in the previous year's assessment.
5. The EQRO will develop a "health plan report card" in collaboration with MRMIB and the Office of the Patient Advocate. The report card will be used by subscribers to compare the performance of the health plans and assist subscribers in making a choice for health plan enrollment. It is anticipated that the report card would be completed by March 2012 so that it could be used in the 2012/2013 HFP Open Enrollment period.
6. The EQRO will organize, coordinate, and facilitate an annual one-day Quality Assessment and Improvement Conference. In addition, the EQRO will assume an integral role in MRMIB's quality improvement workgroup and meetings, and participate in MRMIB meetings that have a direct impact on the Quality Assessment and Improvement Program.

7. The EQRO will administer annual Consumer Assessment of Healthcare Providers and Systems® (CAHPS) surveys, Dental Consumer Assessment of Healthcare Providers and Systems® (D-CAHPS) surveys, and Young Adult Health Care Survey® (YAHCS) as part of the Quality Assessment and Improvement Program monitoring efforts. The EQRO will conduct the surveys and analyze the results for each contracted health and dental plan. The CAHPS and D-CAHPS surveys should be conducted in English, Spanish, Chinese, Vietnamese, and Korean. The YAHCS should be conducted in English and Spanish and include a web-based survey.
8. The EQRO will additionally provide special consultative services to MRMIB, upon request by MRMIB, in the development and analysis of activities undertaken by MRMIB as part of the Quality Assessment and Improvement Program in areas that include, but are not limited to, biostatistics, health education, subscriber communication and outreach, and medical/clinical issues.
9. Finally, the EQRO will conduct focused quality studies covering either clinical or non-clinical services (with or without a medical chart review) as requested by MRMIB.

MRMIB anticipates working closely with the EQRO during the contract period including the development of a project work plan outlining the activities described above and all reports required by MRMIB from the EQRO.

IV. Solicitation

Enabling statutes, exempt MRMIB from all provisions of state law related to competitive bidding. However, MRMIB is committed to ensuring a fair, open and rigorous competition for the award of this contract and will use a competitive negotiation process to select an EQRO. **The competitive negotiation process is not a Request for Proposal (RFP).** Rather, it is a dynamic competitive process through which MRMIB can evaluate and test, through a negotiation process, the strengths and weaknesses of Proposers and their responses to make a final selection that results in the maximum levels of service available for a competitive price.

Issuance of this Solicitation in no way constitutes a contract or a commitment by MRMIB to enter into a contract. MRMIB reserves the right to accept responses as submitted, reject a part or all of a response, and/or reject all responses. MRMIB further reserves the right to request clarification or seek additional information from any Proposer. Finally, MRMIB reserves the right to modify its requirements based on responses to this Solicitation.

All Proposers are encouraged to offer their best method of how to provide MRMIB's desired outcomes and make use of their best individual business practices and/or take advantage of technological or business solutions. Proposers may be asked to (1) discuss and provide further information on any aspect of their response or any aspect of this Solicitation, (2) discuss and provide further information on changes in proposed service levels and/or prices, and/or (3) enter into negotiations with MRMIB.

All materials submitted in response to this Solicitation become the property of MRMIB, and may, at any time, prior and/or subsequent to the selection of a proposal, be reviewed by any person as needed by MRMIB. Do not mark any portion of the Solicitation response including but not limited to any attachment or required documentation as "Confidential" or "Proprietary". MRMIB will disregard any language purporting to render all or portions of a

response confidential. MRMIB will disclose Solicitation responses only as described in this Solicitation and as permitted by law.

MRMIB will conduct an analytical review and evaluation of each Proposer's Response. MRMIB is the sole judge of proposed methods for achieving desired contractual outcomes. Response submissions will be reviewed in their totality. MRMIB is not required to select the lowest priced response submitted. **MRMIB will select a Proposer based on MRMIB's assessment of the best overall value to the State.** The final decision is at the sole discretion of MRMIB. It is anticipated that the initial designation of the EQRO for purposes of focused contract negotiations will be made at the July 13, 2011 MRMIB Board meeting.

MRMIB may elect to enter into discussions with one or more Proposers should discussions or negotiations with one or more Proposers (including, but not limited to, any initially designated Proposer prior to execution of the contract for EQR activities) not progress within anticipated timeframes or for any other reason within the sole discretion of MRMIB.

MRMIB is posting this Solicitation on BidSync, a bid information and distribution website, so Proposers who have an interest may submit a Response in accordance with the terms of this Solicitation. This Solicitation contains instructions governing Response submission and the materials to be included, with the Response. By submitting a Response, the Proposer accepts the terms and requirements of the Solicitation without exception, deletion, qualification or contingency. It is the Proposer's responsibility to periodically check the BidSync website for information, changes or amendments to this Solicitation.

V. Solicitation Timeline

The following timeline is provided for information and planning purposes but any change in the selection and implementation schedule, and the selection process, is at the sole discretion of MRMIB.

<u>Event</u>	<u>Date</u>	<u>Time</u>
Solicitation available to prospective Proposers	May 16, 2011	
Written questions due to MRMIB	May 23, 2011	
Proposer's Conference	June 6, 2011	10:00am
Final date for Response submission	June 17, 2011	5:00pm
Initial Designation of Contractor	Aug 31, 2011	
Contract Effective Date	Oct 1, 2011	

VI. Proposer's Conference

A Proposer's Conference will be held on Monday, June 6, 2011, from 10:00 a.m. until 12:00 p.m. at the Employment Development Department, 722 Capitol Mall, Auditorium, Sacramento, California. Please arrive in time for the ten o'clock start time. During the conference, MRMIB staff will review the Solicitation and answer written questions submitted prior to close of business on May 23, 2011 by interested parties and potential Proposers. MRMIB will document any questions raised at the Proposer's Conference and will provide answers to all questions in writing on the MRMIB website at www.mrmib.ca.gov. Proposers should check the website for clarifications and official responses. Proposers should not rely on verbal responses that may have been provided during the conference.

VII. Response Instructions

A Proposer must address all the requirements and respond to all requests for information set forth in this Solicitation. Incomplete submissions may not be considered by MRMIB. Proposers are encouraged to suggest improvements to the program administration and service levels that enhance the quality, effectiveness and efficiencies of the EQR activities and/or HFP. The Proposer should identify and inform MRMIB of any function or service not identified in the Solicitation, which the Proposer believes is desired or required to provide all functions necessary to implement and operate the EQR activities.

All contacts regarding the Solicitation should be addressed to the MRMIB contact person. The MRMIB contact person for this solicitation is:

Lilia Coleman
Managed Risk Medical Insurance Board
1000 G Street, Suite 450
Sacramento, CA 95814
(916) 324-4695 Telephone
(916) 327-9661 Fax
E-mail address: lcoleman@mrrib.ca.gov

Submission of a Response to this Solicitation signifies the Proposer's commitment to negotiate and promptly respond throughout the course of negotiations, with a goal to produce and execute a contract so that work could be commenced on October 1, 2011. There will be no reimbursement for costs associated with the preparation, submission or requested clarification of any response.

1. Format Requirements

Proposers may submit only one Response. However, a firm or individual proposing to act as a prime Contractor may be named as a subcontractor in another's Proposer's Response. Similarly, more than one Proposer may use the same subcontractors and/or independent consultants. The Response shall include one (1) original Response complete with attachments, five (5) copies or sets, and one (1) CD-R of the Response with all documentation and attachments submitted. The original Response must be identified as the "Original" and contain all original required signatures. The CD-R shall be labeled "EQRO Solicitation Response (firm name)". Each set, whether or not a copy, must include all required attachments and documentations.

The Response shall be single-sided on white bond paper, using one-inch margins at the top, bottom, and both sides. A font size of not less than 11 points shall be used. All pages in the Response excluding in the Forms Section or Appendix Section shall be sequentially paginated. Each response set shall be bound in a way that enables easy page removal. High quality three ring binders are acceptable. All required signatures must be signed in ink, preferably in blue. Signature stamps or electronic signatures are not acceptable. Only a person who is authorized to bind the responding firm shall provide required signatures. The documents placed in the extra response sets may reflect photocopied signatures.

2. Content Requirements and Order

The Response shall consist of a Narrative and the forms included in this Solicitation as Attachments 4, 5, and 6. All narrative portions should be straightforward, detailed and precise. Responses shall follow all instructions and/or clarifications issued by MRMIB.

Assemble the materials in each Response set in the following order:

- a. Cover Page-must be signed by a person authorized to bind the Proposer. If the Responder is a corporation, a person authorized by the Board of Directors to sign on behalf of the Board must sign the Solicitation Cover Page.
- b. Table of Contents
- c. Executive Summary (limit two pages)-In preparing the Executive Summary, do not simply restate or paraphrase information in this Solicitation. Describe or demonstrate, in the Proposer's own words, the following information:
 - i. An understanding of MRMIB's needs and the importance of this project;
 - ii. The tangible results that are expected to be achieved;
 - iii. A sincere commitment to perform the Scope of Work in an efficient and timely manner;
 - iv. How this project will be effectively integrated into the Proposer's current obligations and existing workload, and
 - v. Why the Proposer should be chosen to undertake this work at this time.
- d. Proposer Capability (limit three pages, excluding the sample report and forms).
 1. Describe the Proposer's experience that qualifies the Proposer to undertake this project. This should include information that demonstrates that the Proposer, or its subcontractors, possesses the following experience (reported experience should be based on work that occurred within the past five (5) years):
 - (a) At least three (3) consecutive years of experience serving as a contracted EQRO for a state's Medicaid or CHIP program and completing and reporting the services as described in Section III of this Solicitation; conducting CAHPS surveys as prescribed by the NCQA; and working with committees, task forces and work groups of varying organizations in pursuit of a common goal, report or objective.
 - (b) Comparing and analyzing health plan performance across a spectrum of measures, including clinical, service-related, financial and contractual, other than those associated with an EQR.

- (c) Validating encounter data and conducting QIPs.
 - (d) Conducting focused studies following the Protocols.
 - (e) Writing comprehensive technical and statistical reports for a lay audience.
 - (f) Conducting interviews.
 - (g) Working within the medical and/or insurance industries in a consultative position to managed care plans, medical groups or health care providers.
 - (h) Coordinating and facilitating regional or national conferences.
 - (i) Developing health plan report cards.
2. Describe the Proposer's process for producing written reports from concept through final approval:
 - (a) Include, in the Appendix Section of your Response, a copy of a recent report produced by the Proposer for a client other than MRMIB which has an emphasis on the presentation and analysis of technical data or information. This report should be the final version that was accepted by the client.
 - (b) In providing this document, the Proposer is certifying that the document was submitted by the Proposer to the client in the normal course of business.
 3. Provide examples of forms/documents used by the EQRO in its review of managed care organizations in an Appendix.

e. Project Description (Limit 15 pages).

1. Describe the Proposer's approach for each component of the Scope of Work as described in Section III.
2. Describe the Proposer's strategies for completing the activities, including but not limited to the following:
 - (a) How the Proposer will promote health plan cost efficiencies by coordinating EQR activities with the Medi-Cal program and its health plans, most of which also serve the HFP population.
 - (b) Describe the Proposer's strategy and commitment to being available to MRMIB staff during Pacific Time Zone business hours and to attend regularly scheduled meetings with the Board, MRMIB staff, HFP health plans, advisory groups and other stakeholders.

(c) Explain/describe how the Proposer intends to measure or prove successful completion of each major task, function, or activity. If applicable, identify the key events or outcomes that will signify completion or identify tangible items (deliverables) that will result at the conclusion of the various tasks/activities or functions.

(d) Provide a timeline for the completion of the activities.

(e) Identify any potential problems or challenges and discuss how the Proposer will address them.

f. Project Management (Limit five pages, not including resumes).

1. Professional staff. Describe in detail the proposed staff to be assigned to the project. Identify the project manager and if different, the contact person for MRMIB staff. For each staff person, explain their role in the project, include the amount of time, as a percentage of full time equivalent that the person will be assigned to the project and their title and level of experience. EQR experience should be specifically identified. Include resumes for each staff person to be assigned to the project and include a project organizational chart in the description as an appendix. The resumes should include licensing and certification information.
2. Use of subcontractors. If the Proposer plans to use subcontractors, explain the specific role each will play and provide their qualifications, including resumes of key staff that will be involved. Also address the organization's specific experience working with the subcontractor for similar projects. Describe how the Proposer will provide oversight of the subcontractors, including project management and the cost effectiveness of their use.
3. Confidentiality and security. Describe how the Proposer will ensure the confidentiality and security of data, including during transmission between the EQRO and the health plans and the EQRO and MRMIB.

g. Required Certifications

Proposer must certify that it and/or its subcontractors, if applicable:

1. Meet both the competence and independence requirements under Title 42, Code of Federal Regulations (CFR), Section 438.354;
2. Are certified by NCQA to conduct CAHPS surveys.
3. Are in good standing and qualified to conduct business in California.
4. That they have a past record of sound business integrity and a history of being responsive to past contractual obligations.
5. That they are financially stable and solvent and have adequate cash reserves to meet all financial obligations while awaiting reimbursement from MRMIB.

6. That they have read and are willing to comply with **all** proposed contract terms and conditions addressed in the Solicitation and in Exhibits B, C, D, and E of Attachment 1. If there are any terms to which Proposer cannot agree, Proposer must identify the specific terms and indicate alternate terms. It will be in MRMIB's sole discretion whether any alternate terms will be accepted.
7. That no prohibited conflict of interest exists.
8. That they have all necessary insurance coverage including errors and omissions/professional liability insurance (including but not limited to coverage for information security breaches) and workers compensation insurance. The selected Proposer must supply, before contract execution, proof of the above described insurance coverage to MRMIB.

h. Cost Response.

Complete Attachment 5, Cost Table using the following instructions and assumptions:

1. Lines 1 – 9, 11-12, 14, 15 – 18, 20A, 20B and “Total” will have pricing for each of the three contract years (Columns 3, 4, and 5).
 2. Line 10 will have pricing for Contract Year 1 only (Column 3)
 3. Line 11 will have pricing for Contract Year 2 and Year 3 only.
 4. Lines 13 and 19A – 19E will have pricing entered under “Hourly Rates” only (Column 6).
 5. For Lines 4A – 7, 11 -- 12, 16 – 18, 20A and 20B, the Proposer shall consider the price for the activity across 25 health plans, i.e. the total price for the validation of twenty five performance measures, one for each of 25 health plans.
 6. For those activities for which more specificity is required in order to be priced, such as the Focus Study, the Proposer shall provide a brief description of the activity it is pricing. The potential activity should be pertinent to the HFP population.
 7. A brief explanation should be given about which type of technical assistance or consulting services will be provided by each category of staff included in Lines 13 and 19A through 19E.
 8. Only whole dollar amounts shall be entered into the Cost Table.
 9. Explain how the proposer determined the cost for each activity as described above.
- i. Assurance of Independence - The Proposer shall complete and submit the Assurance of Independence form in Attachment 4 of this solicitation

- j. Proposer References – the Proposer shall complete and submit the Assurance of Independence form in Attachment 4 of this solicitation.

VIII. Response Submission

Entities wishing to submit a Response must assure that their Response including all required copies are received at the MRMIB offices described below, no later than 5:00 pm (Pacific Time Zone) on June 17, 2011. Deposit with the Postal Service and/or postmark is not sufficient proof of timely delivery. Late submissions will not be accepted. Proposers shall promptly transmit an e-version of their response upon request by MRMIB.

Responses must be sent to:

Managed Risk Medical Insurance Board
Attn: Gina Van Nes
1000 G. St, Suite 450
Sacramento, CA 95814

IX. CONTRACTING PROCESS

A. Term

This Solicitation shall result in a three-year contract term that begins on October 1, 2011.

B. Funding

It is anticipated the contract award shall be no more than \$2,500,000 per contract year. During each contract year, MRMIB will retain 10 percent of the contract award amount until all deliverables for that contract year have been submitted to MRMIB and accepted as satisfactory. MRMIB anticipates paying the EQRO on a quarterly basis and upon receipt and approval of the deliverables for the major milestones. The amounts to be provided quarterly and for the deliverables will be negotiated.

The contract resulting from this Solicitation is contingent upon funds being appropriated, budgeted and otherwise made available and other contractual requirements, if applicable, being satisfied. The resulting contract is subject to and contingent upon the continuing availability of federal and state funds for the purpose thereof. The Proposer understands and agrees that all rights, demands and claims to compensation arising under the resulting contract are contingent upon receipt of such funds by MRMIB. In the event that MRMIB does not receive such funds or any part thereof, MRMIB may immediately terminate this contract without liability, including liability for termination costs.

C. Subcontracting

The selected EQRO may subcontract with other entities to provide services under this contract. Any and all subcontracts entered into by the EQRO for the purpose of meeting the requirements of this contract are the responsibility of the EQRO. MRMIB will hold the

EQRO responsible for ensuring that subcontractors meet all the requirements of the negotiated contract for services pursuant to this Solicitation.

D. Contract Provisions

MRMIB will require the selected Proposer to execute a contract with MRMIB. That contract will contain performance standards and liquidated damages for non-performance. Performance will be monitored quarterly, and performance results will be shared with the public. The selected EQRO will be required to have senior management staff at Board meetings, as identified/requested by MRMIB, to respond to questions regarding the EQRO's performance and administration. Provisions of the contract include, but are not limited to, the terms included in Attachment 1. The terms listed in Exhibits B, C, D, and E of Attachment 1 are standard terms that will be included as part of the contract. If there are any terms to which Proposer cannot agree, Proposer must identify the specific terms and indicate alternate terms. It will be in MRMIB's sole discretion whether any alternate terms will be accepted.

MRMIB reserves the right to negotiate terms and conditions of the contract(s), which may differ from the terms of this Solicitation. Contract terms will be defined by MRMIB consistent with state and federal law and the requirements. The selected EQRO will be expected to enter into all related contracts with other entities as required to perform the work.

Attachment 1

AGREEMENT NUMBER

REGISTRATION NUMBER

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

STATE AGENCY'S NAME

Managed Risk Medical Insurance Board ("State")

CONTRACTOR'S NAME

[Contractor]

2. The term of this Agreement is: October 1, 2011 through September 30, 2014

3. The estimated amount of this Agreement is: **\$7,500,000.00**

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

Exhibit A – Scope of Work	18 pages
Exhibit B – Budget Detail and Payment Provisions	2 pages
Exhibit C* – General Terms and Conditions	3 pages
Exhibit D – Special Terms and Conditions	27 pages
Exhibit E – Federal Terms and Conditions	2 pages
Attachment A-Debarment Certification	3 pages
Attachment 1 – Std. 213	1 pages
Attachment 2 – Health & Dental Plan Demographics	4 pages
Attachment 3 – 2012 Performance Measures	3 pages
Attachment 3 – Assurance of Independence	1 pages
Attachment 5 – Cost Table	3 pages
Attachment 6 – Reference Form	1 pages

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

CONTRACTOR

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

[Contractor's Legal Name]

BY (Authorized Signature)

 **DRAFT**

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

[typed name and title of person authorized by Contractor to sign contracts]

ADDRESS

[typed address of Contractpr]

STATE OF CALIFORNIA

AGENCY NAME

Managed Risk Medical Insurance Board

BY (Authorized Signature)

 **DRAFT**

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Terresa Krum, Deputy Director of Administration

ADDRESS

1000 G. Street, Suite 450, Sacramento, CA 95814

California Department of General
Services Use Only

☒ Exempt per:
Ins. Code sec. 12693.54

**EXHIBIT A
SCOPE OF WORK**

I. PURPOSE

This Agreement is entered into between the Managed Risk Medical Insurance Board (the State) and _____ (Contractor) for the purpose of providing external quality reviews (EQRs) of the quality of care provided by the Healthy Families Program contracted managed care organization (Plan).

II. Term of Agreement

This Agreement shall commence upon October 1, 2011 and end on September 30, 2014. The State shall retain the exclusive right to exercise the option to extend the term of this contract, as determined by the original end date or by a new end date if an extension has been exercised. The Contractor shall be given at least 90 days prior written notice should the State choose to exercise this option and extend the contract. Term extensions are subject to funding availability and acceptable Contractor performance.

This agreement must be signed by the State's Contracting Officer or authorized representative and an authorized representative of the Contractor, before any work may begin. Any work initiated without written authorization is deemed voluntary.

III. PROJECT REPRESENTATIVES

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

Managed Risk Medical Insurance Board	Contractor
Shelley Rouillard, Deputy Director Benefits and Quality Monitoring Division Telephone: (916) 323-4130 Fax: (916) 327-9661 Email: srouillard@mrmib.ca.gov	[Enter Name of Contract Manager] Telephone: (XXX) XXX-XXXX Fax: (XXX) XXX-XXXX Email: XXXXXXX@XXXXXX

B. Direct all inquiries to:

Managed Risk Medical Insurance Board	Contractor
Research and Quality Monitoring Unit Attn: Lilia Coleman, Research Program Specialist 1000 G Street, Suite 450 Sacramento, CA 95814 Telephone: (916) 323-4130 Fax: (916) 327-9661 Email: lcoleman@mrmib.ca.gov	Section or Unit Name Attention: Street address & room number City, State, Zip Code Telephone: (XXX) XXX-XXXX Fax: (XXX) XXX-XXXX Email: XXXXXXX@XXXXXX

IV. CONTRACTOR RESPONSIBILITIES

The Contractor shall provide the State the services described herein.

- A. Perform independent annual external quality reviews (EQRs) of health care services provided to Healthy Families Program (HFP) subscribers by all Plans as described in Section IV.B. below.
 - 1. The external quality reviews shall be performed in compliance with federal and state law, regulation, and guidance including, but not limited to, 42 C.F.R. Part 438, Subpart E and the most current guidance from the Centers for Medicare and Medicaid Services (CMS) as to protocols applicable to External Quality Reviews for state Children's Health Insurance Programs ("the Protocols"). Upon release, any additions or modifications to federal statutes, federal regulations or the Protocols that pertain to external quality review activities for state Children's Health Insurance Programs shall be used to guide Contractor's activities for HFP and are incorporated into this Agreement.
 - 2. The annual EQR activities shall be completed during each contract year. By September 30, 2012, Contractor shall complete the assessment based on data from Calendar Year 2011 and activities undertaken during the contract year.
- B. The EQR shall provide an in-depth analysis of the quality of the health care and services provided by each Plan and evaluate the effectiveness of each Plan's internal quality improvement systems. The reviews shall analyze quality of care, timeliness of services, and access to services provided or arranged by the Plan. The reviews shall include:
 - 1. The Validation of at least two Performance Measures (PMs).
 - a. Contractor shall review the State's requirements for health plan performance measurement and reporting. The State will specify the Healthcare Effectiveness Data and Information Set (HEDIS) PMs to be calculated by the Plans and the reporting requirements. Within thirty (30) days of contract execution, the State will notify Contractor of the PMs to be validated.
 - b. Contractor shall prepare the Plans for on-site activities. Contractor shall provide information to the Plans describing the process and timing for the PM validation, the information and documents that the Plans must provide prior to the on-site visit, the means by which the information should be provided (i.e., hard copy, telephonic interviews and/or electronic copies) and what information must be available to Contractor's staff during the on-site portion. Contractor shall provide the Plans with the policies and procedures used by the Contractor to safeguard confidential information.

c. Contractor shall assess the integrity of the Plan's information system utilizing Appendix Z of the Protocols. The types of data pertinent to the calculation of PMs, such as enrollment data, provider data, claims data, medical record data and pharmacy/laboratory data shall be considered during the assessment.

d. Contractor shall conduct the following activities at on-site visits to each Plan:

(1) Assess data information and control, including, but not limited to, the Plan's ability to link data from multiple sources and whether the Plan used this data to accurately calculate the PMs.

(2) Assess documentation of data and processes used to calculate and report PMs including, but not limited to: (i) the completeness and accuracy of the documentation of the measurement plan and policies; (ii) programming specifications regarding the collection of data from multiple sources; (iii) the integration of the required data into a data set or repository; and (iv) the data queries used to identify denominators, generate samples, determine numerators and apply algorithms to the data.

(3) Assess processes used to produce denominators for each PM including, but not limited to, validating that the specifications were followed and appropriate data was used to identify the total eligible population.

(4) Assess processes used to produce numerators for each PM including, but not limited to, assessing whether the processes used by the Plan to identify pertinent medical events complied with the specifications and accurately populated the numerator, and, if a hybrid or medical record review methodology was used, reviewing a sample of the medical records used to confirm the data.

(5) Assess the sampling process for those PMs not calculated with administrative data only including, but not limited to, verifying that the sampling methodology produced an unbiased sample that is representative of the entire pertinent population and that all measures were treated independently and complied with the PM specifications.

(6) Assess submission of required PM reports to the State, including but not limited to, assessing whether Plan procedures complied with the State's requirements and were implemented correctly.

e. Contractor shall conduct the following activities after the completion of the on-site visits:

(1) Determine preliminary validation findings for each PM. Contractor shall aggregate its findings for review, assessment and reporting. Contractor shall submit these preliminary findings to the State and the Plans. The Plans shall be given the opportunity to submit comments and/or documentation regarding corrections or additions to the report.

(2) Prepare and submit the final validation report to the State.

2. The Validation of Quality Improvement Projects (QIPs)

a. During the first three (3) months of Contract Year One, Contractor shall complete the development of, and deliver to the State, a written description of the Contractor's QIP validation processes for the State's approval. The description shall include the internal processes and tools Contractor will use to convey validation findings and recommendations to the Plans and the State.

b. Contractor shall conduct the following activities for each Statewide QIP and each individual Plan QIP:

(1) Assess the study methodology. Contractor shall assess the appropriateness of the topic, study question, the indicators used to track performance, the description and selection of the population and any sampling methodology used, data collection, interventions, analysis and interpretation of the study results by the health plan, the degree to which the improvement, if any, is "real" and whether improvement has been sustained.

(2) Verify study findings. Contractor shall verify the PM results calculated by the Plans by confirming the accuracy, completeness and reasonableness of the process by which data was gathered, the PMs calculated and the results analyzed, using either a medical record review or an administrative data methodology.

(3) Evaluate overall validity and reliability of QIPs, including but not limited to, the degree to which any problems with the study design affected the results.

c. Contractor shall work with the State and the Plans in the selection, implementation, and evaluation of a statewide collaborative QIP. Contractor shall facilitate the statewide collaborative QIP. This will occur over a three-year cycle:

(1) In Contract Year One, Contractor shall consult with the State and the Plans to identify a Statewide Collaborative QIP based on data from the Plans. The State will establish the baseline measurement for the QIP in consultation with Contractor.

(2) In Contract Years Two and Three, Contractor shall complete an evaluation of the Statewide Collaborative QIP, including any intervention(s) and/or change process(es) that were implemented or occurred after completion of the Statewide Collaborative QIP baseline measure. Contractor shall use sound methodology to evaluate specified measures, processes, procedures and/or other appropriate activities defined in the Statewide Collaborative QIP Charter (or project description or protocol).

d. Contractor, in collaboration with the Plans, shall provide consultation and technical assistance on appropriate processes and procedures for the development, implementation and evaluation of one individual QIP for each Plan. This will occur over a three-year cycle:

(1) In Contract Year One, Contractor shall assist each Plan, in consultation with the State, to identify a Plan-specific QIP based on Plan data. Contractor shall assist each Plan to establish the baseline measurement for the QIP in consultation with the State.

(2) In Contract Years Two and Three, Contractor shall complete an evaluation of the QIP for each Plan, including any intervention(s) and/or change process(es) that were implemented or occurred after completion of the Plan QIP baseline measure. The Contractor shall use sound methodology to evaluate specified measures, processes, procedures and/or other appropriate activities.

3. Performance of Compliance Reviews for each Plan

a. Compliance review activities will occur over a three-year cycle:

(1) In Contract Year One, Contractor shall: (i) complete a full compliance review that includes all of the activities and components listed in this Sections IV.B.3.b. and IV.B.3.c.; (ii) make recommendations to the Plans and the State for the remediation of non-compliant findings; (iii) review Plan-proposed Corrective Action Plans (CAPs) to attain compliance based on recommendations made in the review, and in consultation with the State, propose modifications; and (iv) in consultation with the State, approve the CAPs.

(2) In Contract Year Two, Contractor shall: (i) complete a review of each Plan required to implement a CAP and (ii) make recommendations for those areas of performance not yet compliant and, in consultation with the State, review and approve modified CAPs.

(3) In Contract Year Three, Contractor shall: (i) complete a review of the implementation of the modified health plan CAP and (ii) make recommendations and, in consultation with the State,

review and approve modified Plan CAPs for any areas not yet in compliance.

b. The compliance reviews shall include, but are not limited to, the following activities:

(1) Planning. Contractor shall contact each Plan, gather general information about the Plan and its characteristics, plan the schedule for the on-site visit, complete an agenda, and provide descriptions and instructions to the Plan staff.

(2) Obtaining background information from the State. At least four (4) weeks prior to the time the information is needed, Contractor shall submit a request for information to the State that, at a minimum, covers decisions and standards as required of the State by the Balanced Budget Act of 1997 (BBA) regulations.

(3) Providing information requests to Plans at least six (6) weeks prior to the deadline by which the documentation is to be submitted to Contractor.

(4) Reviewing documents to assess compliance with federal and state requirements, identify additional documentation needed, and determine issues, questions, and Plan staff to be included in on-site interviews.

(5) Conducting interviews. Contractor shall coordinate the scheduling of the interviews with the Plans and the State. Contractor shall provide details to the Plans about staff required to participate and the possible demonstration of processes that will be requested. Information obtained during the interviews shall be used to supplement and verify the documented information reviewed by the Contractor. During the interview process, Contractor shall communicate to Plan staff potential areas of non-compliance. Contractor shall meet with State staff shortly thereafter to discuss potential areas of non-compliance.

(6) Collecting accessory information. Contractor shall consult with the State on using other independent assessments in the compliance review.

(7) Analyzing and compiling findings.

(8) Reporting evaluation results to the State and the Plans.

(9) Reviewing and approving Plan CAPs in consultation with the State. Contractor shall provide a draft CAP format to the State for review. Contractor shall review the Plan's completed CAP for completeness, reasonableness, and the projected degree of

compliance with regulations after implementation. Contractor shall share and discuss the results of this review with the State.

c. Contractor shall evaluate the following areas during the compliance reviews:

(1) Enrollee rights and protections including, but not limited to, receipt of information, respect and privacy, provider-enrollee communications, participation in health care decisions, freedom from any form of restraint or seclusion, access to medical records and access to appropriate and timely health care.

(2) Access standards including, but not limited to, availability of services, coordination and continuity of care, coverage and authorization of services and provider selection.

(3) Structure and operation standards including, but not limited to, provider selection, confidentiality, enrollment and disenrollment and sub-contractual relationships and delegation.

(4) Measurement and improvement standards including, but not limited to, practice guidelines and the quality assessment and performance improvement program.

(5) The grievance system including, but not limited to, authority to file, timing, procedures, notices of action, handling of grievances and appeals, resolution and notification, expedited resolution of appeals, continuation of benefits, information about the system given to providers and sub-contractors, record keeping and reporting and effectuation of reversed appeal resolutions.

(6) An Information Systems Capabilities Assessment, (ISCA) as described in Appendix Z of the Protocols. Contractor shall complete the following activities: provision of the ISCA document to the Plans for completion; review of the completed ISCA and accompanying documents; follow-up interviews with Plan staff to obtain verification of ISCA and supplemental information, as necessary; aggregation and analysis of all information and integration of findings into EQR activities, as appropriate. The Plans' processes used to submit accurate and complete encounter data to the State's encounter data vendor in the 837 format and their adoption of ICD-10 codes shall also be assessed.

(7) Case management including, but not limited to, identification and referral of potential cases, assessment and planning, facilitating communication and coordination between Plan team members and the subscriber, and the education of the subscriber, family, and Plan team members.

(8) Disease management including, but not limited to, identification and referral, practice guidelines, inclusion of providers and other supporting service providers, and self management health education for subscribers.

(9) Compliance with referral and reporting requirements regarding identification and referral of children with Serious Emotional Disturbances (SEDs) and children who may be eligible for California Children's Services (CCS) to county mental health and CCS programs respectively.

(10) Operational record keeping including, but not limited to, communication between Plan staff and subscribers; communication between Plan staff and providers, as well as the provider selection process; monitoring statistics such as those covering the telephone system or provider access; grievance system files; and policies and procedures.

(11) Subscriber outreach and follow up including, but not limited to, the importance of establishing a relationship with their PCP and reminders about receiving preventive care services.

- C. Contractor shall work closely with the State Benefits and Quality Monitoring Division (BQM) in the development of quality improvement activities undertaken to evaluate and improve performance of individual Plans, and the HFP as a whole. Contractor shall assume an integral role in the State's quality improvement workgroup and meetings, and participate in State meetings that have a direct impact on the Quality Assessment and Improvement Program
- D. Contractor shall coordinate and facilitate an annual one-day Quality Assessment and Improvement Conference on a date specified by the State, and each contract year thereafter. This conference may be coordinated and held in conjunction with the California Department of Health Care Services. In planning the conference, the Contractor must arrange for: (i) keynote, plenary and breakout session speakers, (ii) conference facilities, (iii) conference documents, (iv) a luncheon and morning and afternoon snacks (v) Honoraria and travel costs, (vi) availability of continuing education units for physicians, nurses, pharmacists, Certified Professionals in Healthcare Quality, and Certified Health Education Specialists and (vii) post-conference evaluation and recommendations for future conferences. Contractor shall submit a draft agenda for the following year's conference on a date specified by the State.
- E. The Contractor shall conduct Consumer Satisfaction Surveys of all HFP health and dental Plans.
 - 1. During Contract Year One (1), and the Contract Years Two (2), and Three (3), or other timeframe as specified by the State, Contractor shall conduct a consumer satisfaction survey using the most current version of the Consumer Assessment of Healthcare Providers and Systems (CAHPS®) survey, Dental Consumer Assessment of Healthcare Providers and Systems (D-CAHPS®)

survey, and Young Adult Health Care Survey (YAHCS®). For the CAHPS and D-CAHPS surveys, Contractor shall utilize the surveys developed by the National Center for Quality Assurance (NCQA) for children, including questionnaires for children with special health care needs, where available.

2. Survey Instruments.

a. Contractor shall administer the CAHPS survey in accordance with the NCQA survey standards for accreditation using the most recent CAHPS survey instrument released by the CAHPS Consortium including the item set for Children with Chronic Conditions and selected custom questions as requested by the State.

b. Contractor shall administer the D-CAHPS survey in accordance with survey standards and guidelines established by the Agency for Healthcare Research and Quality (AHRQ) utilizing the most recent D-CAHPS survey instrument released by the CAHPS Consortium, with selected custom questions as requested by the State.

c. Contractor shall administer the YAHCS in accordance with the standards established by the Child and Adolescent Health Measurement Initiative (CAHMI) utilizing the most recent YAHCS instrument released by CAHMI.

3. Survey Translation

a. Contractor shall conduct the CAHPS survey, the D-CAHPS survey and the YAHCS in English, Spanish, Chinese, Vietnamese and Korean, as further described in this Section. Contractor shall make available the web-based version of the YAHCS, described below, in English and Spanish.

b. Contractor shall submit the English version of all materials to be used by Contractor in conducting the surveys (including but not limited to notification letters, questionnaires, and postcards) to the State for approval prior to translating the materials into the identified languages.

c. Contractor shall provide the CAHPS survey, the D-CAHPS survey and the YAHCS to a family with a non-English language preference in the family's preferred written language. The State will indicate the language preferences of each family in a data file provided to Contractor. The cover letter to the family, printed in the preferred written language on one side and English on the other, shall include instructions for requesting the survey in a different language. Reminder postcards shall also be provided in the family's preferred written language.

4. Number of Completed Surveys

a. Contractor shall sample and mail 900 CAHPS surveys for each of the health Plans. The sample shall only include children, ages 18 and

younger, who have been continuously enrolled for at least six months and are currently enrolled in the HFP. For those plans with more than 900 eligible children, Contractor shall be responsible for ensuring that at least 405 CAHPS surveys are successfully completed in accordance with the completeness criteria as determined by Contractor and the State, representing a response rate of at least 45%. For those plans with less than 900 eligible children, Contractor shall mail the CAHPS surveys to parents of all children meeting the eligibility requirements for completion by the parents.

b. Contractor shall sample and mail 900 D-CAHPS surveys for each of the dental Plans. The sample shall only include children, ages 4 to 18, who have been continuously enrolled for at least twelve months and are currently enrolled in the HFP. For those plans with more than 900 eligible children, Contractor shall be responsible for ensuring that at least 405 surveys are successfully completed in accordance with the completeness criteria as determined by the Contractor and the State, representing a response rate of at least 45%. For those plans with less than 900 eligible children, Contractor shall mail the D-CAHPS surveys to parents of all children meeting the eligibility requirements for completion by the parents.

c. Contractor shall sample and mail 900 YAHCS for each of the health Plans. The sample shall only include children, ages 14 to 18, who have been continuously enrolled for at least six months and are currently enrolled in the HFP. For those plans with more than 900 eligible children, the Contractor shall be responsible for ensuring that at least 405 surveys are successfully completed in accordance with the completeness criteria as determined by Contractor and the State, representing a response rate of at least 45%. For those plans with less than 900 eligible children, Contractor shall mail the YAHCS to all children meeting the eligibility requirements. Contractor shall additionally create a website that allows potential respondents to complete and submit the YAHCS online. The website shall be solely owned and operated by Contractor and shall prominently include all privacy and other notices required by applicable state and federal laws and regulations. Contractor shall operate the website in compliance with all applicable state and federal laws and regulations, including but not limited to those laws relating to Business Associates, as that term is defined and used in this Agreement; to the privacy of personal information collected on the website; and to the collection of information from children. Upon the request of the State for any reason, Contractor shall discontinue use of the web site for purposes of survey submissions.

5. Maintenance of Files. Contractor shall keep a complete original of each individual CAHPS survey, D-CAHPS survey, and YAHCS and other related materials and a complete record of every transaction with the respondents of the survey. Contractor shall produce these records in hard copy when requested by the State. At the end of three (3) years, Contractor shall transmit the data to the State or destroy the data at the State's option, unless instructed differently by the

State.

6. Data Files. Contractor shall provide the State with a data file, in a format to be determined by the State, including values for each questionnaire item by completed case, and shall be purged of any identifiable subscriber identification (i.e., name, address, and telephone number). The data file of the respondent-level data shall be provided to the State in a format to be mutually agreed upon by Contractor and the State. A data file layout with defined labels and values shall accompany the data set. Contractor shall be responsible for the accuracy of all CAHPS survey, D-CAHPS survey and YAHCS data transmissions to the State.

7. Release of Survey Data. The State intends to release plan-specific summary data from the CAHPS surveys, D-CAHPS surveys and YAHCS to applicants, subscribers and other interested parties. The final decision regarding the release of information collected from the surveys shall be made by the State.

8. National CAHPS® Benchmarking Database. Contractor shall prepare a data set of the Health Survey for submission to the National CAHPS Benchmark Database (NCBD) as specified by the NCBD management team. Contractor shall release the data set only with prior approval from the State, and the data shall contain aggregate information only, with no personally identifiable information. The Contractor shall submit the CAHPS data set to NCBD.

G. Contractor shall validate the State's encounter data.

1. This shall be on a multiple-year cycle. In Contract Year One, Contractor shall assess the State's encounter data vendor's procedures for processing and validating the Plans' encounter data and identify any changes needed in the processes to meet CMS and industry standards. In Contract Year Two and/or Three, Contractor shall complete an encounter validation as requested by the State. The validation shall include, but not be limited to:

- a. Review of the State requirements for encounter data collection, submission and processing.
- b. Review of each Plan's capability to produce accurate and complete encounter data and incorporating the results of the ISCA completed by Contractor.
- c. Review of medical records for confirmation of the findings of the analysis of encounter data.
- d. In coordination with the State's encounter data vendor, Contractor shall provide technical assistance to the Plans.

2. In Contract Years Two and Three, Contractor shall perform a follow-up assessment of the vendor and the Plans in those areas found to be non-compliant with the State's requirements in the previous year's assessment.

- H. Contractor shall develop an annual "Health Plan Report Card" for subscribers in collaboration with the State and the Office of the Patient Advocate which will allow subscribers to quickly and easily identify the performance of all HFP health plans based on health care quality (HEDIS) and consumer satisfaction (CAHPS) scores. The Health Plan Report Card shall be due in time for the following year's open enrollment period (anticipated due date: March 2012).
- I. Contractor shall provide technical assistance to the Plans and the State regarding the requirements for the EQR. Contractor shall provide recommendations in support of improvements within the Plans' service delivery systems, as well as to the HFP Quality Assessment and Improvement Program.
- J. Contractor shall provide Special Consultative Services to the State, upon request by the State, in the development and analysis of activities undertaken by the State as part of the Quality Assessment and Improvement Program. This shall include, but is not limited to, research on selected issues or proposed strategies and methodologies for problem resolution or system improvement. All requests for special consultative services will be transmitted in writing from the State to Contractor. Each request shall include: (i) a description of the major functions, tasks, and activities required; (ii) the timeline/due date for any reports or identified deliverables; (iii) specifications as to the medium and/or format of the desired deliverable; (iv) a listing of the Contractor's project requirements; and (v) any other instructions, definitions, specifications, requirements, outcomes, tangible items, or products expected. No special consultative services shall be performed before the parties have a written agreement that includes the minimum defined requirements as set forth above, as well as the agreed upon cost for completion of the project. The amount of payment shall be based upon the professional classifications and number of hours agreed upon by Contractor and the State in accordance with Contractor's approved hourly rates for personnel classifications contained in Attachment 5 of this Agreement.
- K. At the State's request, Contractor shall conduct studies focused on clinical and non-clinical health care services provided by the Plans. The State may request a one-time study which may not necessarily follow-up with a repeat study for quality improvement purposes. Payment for such studies shall be agreed upon by Contractor and the State prior to the Contractor initiating any work on such studies.
- L. Preparation of Project Work Plan. Within fifteen (15) days of execution of this Agreement, Contractor shall provide the State with a detailed project plan identifying each milestone and deliverable. The detailed project plan shall include, but is not limited to, a description of each task, staff to be assigned to each task, deliverables associated with each task, timeframes for completion of each task, procedures for reporting status, procedures for approvals of changes to the project plan, a list of milestones toward completion of the work and an estimate of planned expenditures related to the project plan milestones. Contractor shall submit an Annual Work Plan no later than sixty (60) days prior to the beginning of each contract year. Based upon feedback from the State, the

Annual Work Plan shall be finalized no later than fifteen (15) days after the start of each contract year.

M. Project Launch. Within thirty (30) days of contract execution, Contractor shall host a kick-off meeting with the State to discuss the project strategy, work plan, timeline, and identify stakeholders. At a date determined by the State, Contractor shall host a kick-off meeting with all HFP Plans. The kick-off meeting shall include, but not be limited to, introductions, presentation of Contractor's work plan and timeline, and a discussion of roles and responsibilities.

N. Project Updates and Status Reports

1. Contractor shall ensure attendance by appropriate staff at regularly scheduled telephone conference calls and in-person meetings to discuss the status of deliverables and issues related to EQR activities. During the conference calls and the meetings, the Contractor shall report:

- a. The status of EQRO activities currently underway and the plan for upcoming EQRO activities;
- b. The status of reports due to the State;
- c. Any problems or issues encountered since the last status update; and
- d. An explanation of any technical assistance provided to the State or the Plans including the name(s) of the State representatives and/or Plan(s) involved and individuals providing consultation, as well as the nature of the assistance.

2. Contractor and the State shall mutually determine the time of the meetings and conference calls. Contractor shall provide the conference call number and pass code for these calls and shall submit written minutes of each status call at least two working days before the next status call.

3. Contractor shall submit quarterly reports no later than fifteen (15) days after the end of each quarter. The report shall cover, at a minimum, the activities completed and deliverables submitted during the preceding quarter and the planned activities for the following quarter. The first quarterly report shall be due on January 15, 2012.

O. Prior to the onset of Contractor activities, Contractor shall submit to the State for review and approval all materials to be used in administering this Agreement including, but not limited to, documents for use by the Plans in providing data and information to the Contractor, forms, postcards, letters, and instructions. The State will approve, reject or provide modifications of all materials within ten (10) business days after receipt from Contractor. Contractor shall verify receipt by the State of any materials Contractor has requested to be reviewed and approved. The failure of the State to respond within the required time shall not be deemed approval of the materials.

P. Required Reports.

1. Each of the following reports shall be submitted annually unless otherwise indicated. Contractor shall submit an initial draft to the State for comment, prior to finalizing. The report shall include, but not be limited to, the purpose of the activity, a description of the activity, the methodology used to complete the activity, the findings, and if appropriate, recommendations to improve the quality, timeliness and access to health care services.

a. A detailed technical report for each HFP Plan describing the aggregation of data obtained during the completion of the activities covered in this Exhibit and from other sources. The report shall also describe the analysis of this data and the way in which conclusions were drawn as to the quality, timeliness and access to care furnished by the Plan, as well as recommendations to the Plan for improving the quality of health care services and becoming compliant with program requirements. After Contract Year One, the report shall also include Contractor's assessment of the degree to which the Plan has effectively addressed the previous year's recommendations.

b. A summary report that includes the major findings of the EQR, the strengths and weaknesses of each Plan with respect to the quality, timeliness and access to care, a comparison of health plan performance to that of other Plans and a general assessment of HFP's progress in implementing the HFP Quality Assessment and Improvement Strategy.

c. A PowerPoint presentation (or equivalent) for use in presenting an overview of the information in the summary report to the State Board, the Plans and other stakeholder groups by Contractor and/or State staff.

d. An assessment of the encounter data vendor's processes for validating Plan encounter data, and a summary of the recommendations made by the Contractor to the Plans' encounter data submissions. The report shall also include a summary of the technical assistance provide to each Plan regarding encounter data completeness and accuracy.

e. In its role as facilitator of the Statewide Collaborative QIP, Contractor shall submit the following reports which shall reflect the progress and the results of the individual Plans and the overall HFP.

(1) Contractor shall produce a status report, which includes but is not limited to, the specific topic or area being validated, methods used in the validation, results of the validation, problems encountered related to the validation, and recommendations for changes in the QIP strategy and/or validation processes.

(2) In Contract Year Two, Contractor shall submit a report to the State that includes, but is not limited to, a description of the study, the basis of selection of the study, the identification of

interventions, and the anticipated results after implementation of the interventions.

(3) By the end of Contract Year Three, Contractor shall prepare an interim report of the Statewide Collaborative QIP. The report shall include, but not be limited to, an identification of any key issues that may impact the results of re-measurement, as well as any refinements made to the study while in progress.

f. Individual Plan QIP Reports.

(1) Contractor shall produce a status report, which includes but is not limited to, the specific topic or area being evaluated, methods used in the evaluation, results of the evaluation, problems encountered related to the evaluation, and recommendations for changes in the QIP strategy and/or evaluation processes.

(2) In Contract Year Two, Contractor shall complete a QIP status report for each Plan which includes, but is not limited to, the specific topic or area being evaluated, methods used in the evaluation, results of the evaluation, problems encountered related to the evaluation, and recommendations for changes in the QIP strategy and/or evaluation processes.

(3) By the end of Contract Year Three, Contractor shall prepare an interim report for each Plan's QIP. The report shall include, but not be limited to, identification of any key issues that may impact the results of re-measurement, as well as any refinements made to the study while in progress.

g. Reports for the CAHPS Surveys, the D-CAHPS Surveys, and the YAHCS.

(1) Contractor shall provide the State and each health and dental Plan with the following reports of the survey results within two months of the completion of the survey period: (i) a text report summarizing the CAHPS survey, D-CAHPS survey or YAHCS results for each health and dental Plan, as appropriate, including each Plan's specific response rates, (ii) a text report summarizing the survey results for each language surveyed and each ethnic group identified in the survey sample, (iii) bar graphs showing for each question the Plan's score and, for comparison, an all-Plan average score, and (iv) a table showing response rates, percentage of undeliverable addresses on the list provided by the State, percentage of corrected addresses and comparisons of demographic characteristics between the list provided by the State and the mailed respondent samples. The reports shall include an executive summary and recommendations to the Plans and the State for improving subscriber satisfaction with service and care.

(2) Demographic Analysis Report. Contractor shall provide the State with a report of the survey results by demographic variable, including ethnicity, language and region, within two months of the completion of the survey field period. Contractor shall deliver to the State one color hard copy and one electronic version on CD of the demographic analysis report.

(3) Continuous Quality Improvement (CQI) Reports.

(i) Contractor shall provide the State and each health and dental Plan individual CAHPS CQI reports aggregating data for each of the CAHPS survey, D-CAHPS survey and YAHCS, within two months of the completion of the survey field period. Each report shall be customized with the Plan's data and shall show comparative data across all Plans.

(ii) Contractor shall provide the State an overall report, containing aggregate level data for all health and dental Plans, including trend data, when available, from prior results for the CAHPS surveys, D-CAHPS surveys, and the YAHCS. The overall report shall include an ethnicity CQI report which shall include all health and dental Plans and the language in which the survey was conducted. Contractor shall deliver to the State one color and one black and white electronic copy on CD of the overall report and individual health and dental Plan level reports, which the State shall distribute to the plans within two months of the completion of the survey field period.

(4) Periodic Project Updates. Contractor shall provide the State with periodic updates on the status of the surveys. The schedule for project updates shall be determined by the project milestones and through the mutual agreement of the State and Contractor, pursuant to a project implementation plan mutually agreed on within ten (10) days of the effective date of this Agreement. During the data collection period, the project update shall include the total survey completions to date and a summary of sample dispositions resolved since the previous report was issued.

h. Consultative services reports, as requested by the State.

i. Focused quality studies reports, as requested by the State.

Q. Contractor certifies that all reports, documents, instruments, papers, data, information and forms of evidence delivered to the State with respect to this Agreement are accurate and complete insofar as completeness may be necessary to give the State true and accurate knowledge of the subject matter thereof, and do not contain any material misrepresentations or omissions.

- R. All work product generated by Contractor in performing this Agreement shall be the property of the State. Contractor may not transmit or otherwise use any data or other information or materials acquired in connection with the operation of this Agreement without the advance written permission of the State. Upon termination of the Agreement, Contractor shall immediately give all such data and other information or materials to the State, unless instructed differently by the State.
- S. Change Control. If unanticipated changes of Contractor's approved work plan and timeline are required during the course of the project, Contractor shall immediately document the changes in a Change Control Document. The Contractor shall develop a Change Control Document which shall be approved by the State. Contractor shall request approval of each change in writing from the State Project Manager. At the time Contractor or the State identifies an unavoidable change that will require modification of the Annual Work Plan or other issues materially affecting the Annual Work Plan, all work shall stop on the impacted activity until the changes are approved by the State Project Manager.
- T. Turnover/Phase Out
1. During the last three (3) months of the contract, prior to expiration or termination, Contractor shall perform all duties associated with the Turnover/Phase out period. Turnover/Phase out activities shall include, but not be limited to, the delivery of documents, records, reports, and databases to the State or the entity specified by the State.
 2. Beginning three (3) months prior to the physical transfer of the documents, data, records, reports and databases referred to above, the Contractor shall meet with the State and Successor Contractor staff to:
 - a. Develop and submit to the State a detailed functional area Turnover Report. The Turnover Report shall document, at the lowest level of detail practical, the work in process under Contractor's control to be transferred to the Successor Contractor's control for processing. The Turnover Report shall be submitted on a biweekly basis to the State. The final Turnover Report shall be delivered by 12:00 p.m. Pacific Time Zone and no later than seven (7) days prior to the end date of the agreement operations.
 - b. Provide an estimate of the number of residual unprocessed reports and status reports which shall be transferred to the State and or the Successor Contractor.
 - c. Establish a transfer schedule which must be approved by the State.
 - d. Ensure that the transfers of all contractual responsibilities are conducted to prevent any interruption in services while the transfer is executed.

- e. Provide Plans' data for Performance Measures (PM) for ongoing studies to the State.
 - f. Provide Plans' data for Quality Improvement Project (QIP) studies that are underway to the State.
 - g. Provide Plans' data for corrective action plans (CAPs) going on at the time of transfer to the State.
 - h. Provide data, data templates, reports and any other related data/information the contractor possess regarding the Quality Assessment and Improvement Project or EQR activities for the HFP.
3. Post Contract Operations Phase. For sixty (60) days after termination of contract operations, remaining key personnel must be available to the Successor Contractor and State staff to answer questions regarding the past operations. The Post Contract Operations Phase shall terminate sixty (60) days after the end of Agreement operations (Contractor should be aware that the term of the contract extends sixty (60) days after the end of contract operations).

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

I. FISCAL PROVISIONS

A. Total Amount

The maximum amount of this Agreement shall not exceed \$2,500,000 per contract year. Ten (10) percent shall be withheld annually until completion of all activities and reports specified in Exhibit A.

B. Payment

Contractor shall be paid by the State in quarterly installments and upon receipt and approval by the State of the deliverables of the major milestones outlined in Exhibit A, Section IV, including but not limited to Section IV.H ("Health Plan Report Card"), Section IV.L ("Project Work Plan") and Section IV.P ("Required Reports").

C. Invoicing Procedure

The State shall pay the invoice upon acceptance and approval of all work identified in the invoice. All invoices for payment shall be for work already performed and no payments will be made in advance of services rendered. Invoices shall identify all reports required to be completed in that quarter and their status. Invoices must state the Contract Number and should be sent to:

Managed Risk Medical Insurance Board
Attn: Shelley Rouillard, Deputy Director
1000 G Street, Suite 450
Sacramento, CA 95814

The State shall make payments to the Contractor within forty-five (45) days of receiving invoices which the State does not dispute.

D. Availability of Federal Funds

1. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of Congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would

occur if the Agreement were executed after that determination was made.

2. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.

E. Budget Contingency Clause

It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, The State shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an amendment to the Contract to reflect the reduced amount.

F. Prompt Payment Clause

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

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. INDEMNIFICATION:

A. INDEMNIFICATION

Contractor shall indemnify, defend and save harmless the State, and their respective officers, trustees, agents and employees from any and all claims, damages, costs, losses, lawsuits, liabilities, or expenses, including but not limited to interest, penalties, attorneys' fees and costs in enforcing this indemnity or otherwise, which (1) arise out of, are due to, or are alleged to arise out of or be due to, a breach by Contractor of any of its representations, warranties, covenants or other obligations contained in this Agreement, (2) are caused by or result from or are alleged to arise out of or result from, Contractor's acts or omissions constituting bad faith, willful misfeasance, negligence or reckless disregard of its duties under this Agreement, or (3) arise out of or result from Contractor's performance of the Contractor's obligations under the terms of this Agreement or Contractor's breach of any provision of this Agreement, or (4) accrue or result, or are alleged to accrue or result, to any and all Subcontractors, contractors, other subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement, or (5) arise out of, are due to or are alleged to arise out of or be due to, any violation of HIPAA, the HIPAA Regulations, HITECH Act, other security or privacy laws, or any other laws, by Contractor or any Subcontractor or agent under Contractor's control.

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

B. RIGHT TO TENDER OR UNDERTAKE DEFENSE

If the State is named a party in any judicial, administrative, or other proceeding arising

out of or in connection with a breach of this Agreement or a matter for which the Contractor is obligated to indemnify the State under this Agreement, then the State will have the option at any time to either: (1) tender its defense to the Contractor, in which case Contractor will provide qualified attorneys, consultants, and other appropriate professionals to represent the State's interests at the Contractor's expense, or (2) undertake its own defense, choosing the attorneys, consultants, and other appropriate professionals to represent its interests, in which case Contractor will be responsible for and shall pay reasonable fees and expenses of such attorneys, consultants, and other appropriate professionals. If the State elects option (2) above, Contractor shall be afforded a reasonable opportunity to participate in the defense and attend the legal proceeding at its own expense; however, the State shall have sole control of the defense.

C. RIGHT TO CONTROL RESOLUTION

The State shall have the sole right and discretion to settle, compromise, or otherwise resolve any and all claims, causes of action, liabilities, or damages against it, notwithstanding that the State may have tendered their defense to the Contractor. Any such resolution will not relieve Contractor of its obligation to indemnify the State.

5. **DISPUTES:** Contractor shall continue with the responsibilities under this Agreement during any dispute.

6. **TERMINATION FOR CAUSE:** The State may terminate this Agreement and be relieved of any payments should Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. Such right of termination shall be without prejudice to any other remedies available to the State. Upon receipt of any notice terminating this Agreement, Contractor shall immediately discontinue all activities affected, unless the notice directs otherwise, and the State may proceed with the work in any manner deemed proper by the State. In such event, the State shall pay the Contractor only the reasonable value of the services rendered, and all costs incurred by the State shall be deducted from any sum due the Contractor. The State may, in its sole discretion, offer an opportunity to cure any breach prior to terminating for default.

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

8. **RECYCLING CERTIFICATION:** Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

9. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment

against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and its subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

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

10. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

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

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

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

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

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

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

Business and Professions Code.

- 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
 - b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
 - c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
 - d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.
15. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of one hundred thousand dollars (\$100,000), Contractor acknowledges in accordance with Public Contract Code 7110, that:
- a. 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. Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

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

17. PRIORITY HIRING CONSIDERATIONS: If this Agreement includes services in excess of two hundred thousand dollars (\$200,000), Contractor shall give priority consideration in filling vacancies in positions funded by the Agreement to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub.Contract Code §10353.

18. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

- a. If for this Agreement the Contractor made a commitment to achieve small business participation, then the Contractor must within sixty (60) days of receiving final payment under this Agreement (or within such other time period as may be specified elsewhere in this Agreement) report to the contracting department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
- b. If for this Agreement the Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then the Contractor must within sixty (60) days of receiving final payment under this Agreement (or within such other time period as may be specified elsewhere in this Agreement) certify in a report to the contracting department: (1) the total amount the prime Contractor received under the Agreement; (2) the name and address of the DVBE(s) that participated in the performance of the Agreement; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Agreement have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

19. LOSS LEADER: If this Agreement involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT D SPECIAL TERMS AND CONDITIONS

I. TERMINATION

A. Termination for Convenience

1. In addition to the State's right to terminate pursuant to Exhibit B, paragraphs D and E, and as otherwise provided in this Agreement, the State may terminate this Agreement without cause by giving written notice of termination to Contractor not less than thirty (30) calendar days prior to the effective date of the termination. In the event the State terminates all or a portion of this Agreement pursuant to this item 1.A, it is understood that the State will pay the Contractor for satisfactory services rendered prior to the termination, but not in excess of the amount payable pursuant to the terms of this Agreement or in excess of the maximum amount.
2. If, after notice of termination for failure to fulfill contract obligations pursuant to paragraph 6 of Exhibit C, it is determined that Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the State pursuant to item 1.A, above.

B. Termination for Insolvency

Contractor shall notify the State immediately in writing in the event that Contractor files any federal bankruptcy action or state receivership action, any federal bankruptcy or state receivership action is commenced against Contractor, Contractor is adjudged bankrupt, or a receiver is appointed and qualifies. In the event of any of the foregoing events, or if the State determines, based on reliable information, that there is a substantial probability that Contractor will be financially unable to continue performance under this Agreement, the State may terminate this Agreement and all further rights and obligations immediately by giving five (5) days' notice in writing.

C. Responsibilities of the Parties

Upon notice of termination on any basis under this Agreement the responsibilities of the parties shall be as follows:

1. Upon receipt of any notice terminating this Agreement, Contractor shall immediately discontinue all services and tasks affected, unless the notice directs otherwise.

2. Contractor shall cooperate fully and completely with the State and any of its Contractors both during and after the termination and transfer process.

II. AFFIRMATIVE COVENANTS

A. Notice of Proceedings

Contractor shall promptly notify the State in writing of any investigation, examination or other proceeding involving the Contractor, or any Key Personnel, commenced by any regulatory agency which proceeding is not conducted in the ordinary course of Contractor's business.

B. Maintenance of Insurance

Contractor warrants that it carries adequate directors and officers liability insurance, workers' compensation insurance, employer liability insurance, and other insurance as specified by the State, and that it shall maintain such insurance at levels acceptable to the State in full force and effect during the term of this Agreement. All insurance shall be adequate to provide coverage against losses and liabilities attributable to the acts or omissions of Contractor in performance of this Agreement and to otherwise protect and maintain the resources necessary to fulfill Contractor's obligations under this Agreement. Contractor shall maintain additional insurance coverage for business interruption and data processing coverage arising from significant system problems. Satisfactory evidence of all coverage shall be made available to the State upon request.

C. Books and Records

Contractor shall keep accurate books and records connected with the performance of this Agreement during, and for three (3) years after, the term of this Agreement, or until the final payment under this Agreement, whichever is later. Such books and records shall be kept in a secure location at Contractor's office(s). If an audit, review, examination or evaluation is commenced during the time specified herein for the maintenance of books and records, Contractor shall continue to maintain all relevant books and records until the audit, review, examination or evaluation is completed. Contractor shall ensure that books and records of subcontractors, suppliers, and other providers shall also be accurately maintained for the same periods.

D. Quality and Financial Audits

1. During the term of this Agreement and either for three (3) years after the end of the term of this Agreement, or until three (3) years after the final payment under this Agreement, whichever is later, Contractor agrees that the State, its authorized representatives, and such consultants and specialists as needed, as well as the Office of the State Auditor, the U.S. Department of Health and Human Services, and the Comptroller General of the United States or their representatives, consultants, and specialists will have the right to review, obtain, and copy all records pertaining to performance of the contract. Contractor agrees to provide the applicable state or federal agencies or their representatives, consultants, and specialists with any requested information connected with performance of this Agreement and shall permit the agencies or their representatives, consultants, and specialists 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. If an audit, review, examination or evaluation is commenced during the time specified herein, Contractor shall continue to provide access as specified above until the audit, review, examination or evaluation is completed.
2. Contractor shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code section 10115.10, to the extent that said statute is valid and enforceable.
3. Contractor shall submit to the State a copy of its annual Certified Public Accountant (CPA) report (balance sheet, income statement, cash flow statement and related notes to the financial statements, as well as the management letter). Contractor shall submit the CPA report to the State within thirty (30) calendar days of its receipt. Contractor shall also report to the State, as applicable, its corrective action plan in any audit findings specifically related to the duties and responsibilities under this Agreement. Contractor agrees to submit quarterly unaudited financial statements (balance sheet and income statements) to the State, if such statements are requested by the State.
4. The State may make periodic audits and reviews, examinations or evaluations at its expense regarding Contractor's performance under this Agreement, including but not limited to the quality of

services rendered pursuant to this Agreement. The State may also audit and examine records and accounts which pertain, directly or indirectly, to Contractor's (including its parent corporation's) performing of services pursuant to this Agreement. Contractor shall cooperate fully with such auditors; however, such audit shall not interfere with the administration of the Agreement.

5. Audits, reviews, examinations or evaluations may be undertaken directly by the State, or by the Office of the State Auditor, or by third parties engaged by the State, including accountants, consultants and physicians. Contractor shall cooperate fully with the State or any such third party in connection with such audit, review, examination or evaluation.
6. All adjustments, payments and/or reimbursements determined to be necessary by any audit, review, examination or evaluation shall be made promptly by the appropriate party.
7. Contractor shall have the opportunity, prior to the release of the audit, review, examination, or evaluation report, to review the draft and to include in the report its responses to issues raised by the report.

E. Contractor Cooperation

The State has agreements with participating health, dental and vision plans and other contractors and consultants to provide services to persons enrolled in the Healthy Families Program and the State. Contractor shall cooperate fully, and in a timely manner, with the participating plans, and any other contractors and consultants designated by the State and shall provide all information necessary to facilitate all work under this Agreement.

F. Ownership of Work Products/Copyright Protections

Contractor hereby assigns all rights, title and interest, including any intellectual property rights, to any data, materials, reports or works developed, created, compiled or produced as a result of this Agreement ("Contract Materials") to the State and agrees not to disclose these items to any third parties without the State's prior written consent. The Contract

Materials shall be considered a "work made for hire" for the State. The Contract Materials shall, from inception to its creation, be entirely the property of the State in perpetuity throughout the universe, under copyright and otherwise, free of claim whatsoever by Contractor or any person deriving any right or interest from Contractor. The State and its affiliates and licensees shall have the sole, exclusive and unlimited right throughout the universe in perpetuity, to exploit the Contract Materials for any purpose in any and all media by any methods, now or hereafter known. If, for any reason, it is determined that the Contract Materials hereunder do not qualify as a "work made for hire", then any such Contract Materials, together with all rights in and to them shall be deemed transferred to the State by this Agreement. Contractor hereby grants to the State a power of attorney to execute on its behalf any documents necessary to effectuate the purposes, terms and provisions contained herein; provided that the State shall first endeavor to have Contractor execute any such documents and, if Contractor fails to execute and return said documents to the State within ten (10) days following Contractor's receipt of same, the State shall then have the full right and power to execute such documents on Contractor's behalf.

G. Subcontractors

Contractor shall obtain prior written approval from the State before subcontracting any of the services delivered under this Agreement unless approval of the subcontract is included in this Agreement. Any subcontracting will be subject to applicable provisions of this contract, and all applicable state and federal regulations. Contractor shall be held responsible by the State for the performance of any subcontractor.

H. Notices

The parties agree that to avoid unreasonable delay in the progress of the services performed hereunder, Contractor and the State shall each designate specific staff representatives for the purpose of communication between the parties. Any notice or other written communication required or which may be given hereunder shall be deemed given when delivered personally, or if mailed, three (3) days after the date of mailing; unless by express mail, or facsimile telecopy then upon the date of confirmed receipt, to the following representatives:

For State: Managed Risk Medical Insurance Board

Attn: Shelley Rouillard
1000 G Street, Suite 450
Sacramento, CA 95814
Telephone No: 916-323-4130
Fax No: 916-324-4878
E-Mail: SRouillard@mrmib.ca.gov

For Contractor:

Attn:

Telephone No:
Fax No:
E-Mail:

With a Copy to:

Attn:

Telephone No:

Either party hereto may, from time to time by notice in writing served upon the other as aforesaid, designate a different mailing address or a different or additional person to which all such notices or demands thereafter are to be addressed.

I. Permits and Licenses

Contractor shall procure and keep in full force and effect during the term of this Agreement all permits and licenses necessary to accomplish the work contemplated in this Agreement.

J. Compliance with Applicable Law

Contractor shall carry out its duties and responsibilities herein in accordance with, be limited in the exercise of its rights by, and observe and comply with, all federal, state, city and county law, including but not

limited to statutes, ordinances rules and regulations, and common law affecting services under this Agreement.

K. Disclaimer

All statistical and fiscal information contained in this Solicitation and its attachments, and any amendments and modifications thereto, reflect the best and most accurate information available to the State at the time of the Solicitation preparation.

L. Reports and/or Meetings

1. Contractor shall provide oral or written progress reports as requested by the State to determine if Contractor is performing to expectations or is on schedule, to provide communication of interim findings, and to afford occasions for discussing and resolving problems encountered.
2. Contractor shall meet with the State upon request to discuss progress on the Agreement or to present findings, conclusions and recommendations.

M. Additional Documents

Contractor and the State agree to execute such additional documents, and perform such further acts, as may be reasonable and necessary to carry out the provisions of this Agreement.

N. Key Personnel

1. Attached to this Contract is a resume for each member of Contractor's staff who will exercise a significant administrative, policy, or consulting role in carrying out Contractor's responsibilities pursuant to Exhibit A of this Agreement. These personnel shall be hereafter referred to (both individually and collectively) as "Key Personnel."

2. Contractor shall not substitute, replace or reassign Key Personnel without the State's prior approval. However, with the State's prior approval, the parties may agree in writing to a change in these Key Personnel, which writing shall become a part of this Agreement.
3. This Agreement may be terminated immediately, in the State's sole discretion and upon written notice from the State to the Contractor, because of any change in or departure of the Contractor's Key Personnel.

O. Changes In Control, Organization Or Key Personnel

Contractor shall promptly, and in any case within five (5) calendar days, notify the State in writing: (i) if any of Contractor's representations and warranties, as set forth in this Agreement, cease to be true at any time during the term of this Agreement; (ii) of any change in Contractor's staff who exercise a significant administrative, policy, or consulting role under this Agreement, including without limitation the Key Personnel; (iii) of any change in the majority ownership, control, or business structure of Contractor; or (iv) of any other material change in Contractor's business, partnership or corporate organization. All written notices from Contractor under this provision shall contain sufficient information to permit the State to evaluate the changes within Contractor's personnel or organization under the same criteria as was used by the State in its selection of Contractor for this Agreement. Contractor agrees to promptly provide the State with such additional information as the State may request.

P. Confidentiality

1. Contractor agrees to protect the security and confidentiality of all eligibility and enrollment data and all other personal information and protected health information (PHI) about individuals maintained as part of each program in accordance with the Information Practices Act, Civil Code section 1798 et seq., and all other applicable state and federal laws and regulations, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the regulations promulgated thereunder. All financial, statistical, personal, technical and other data and information relating to the State operations which are designated confidential by the State which become available to Contractor shall be protected by Contractor from unauthorized use and disclosure.

2. All financial, statistical, personal, technical and other data and information relating to the State's operations which are designated confidential by the State and which become available to Contractor shall be protected by Contractor from unauthorized use and disclosure.
3. Contractor agrees that it shall not use any individual identifiable information or other confidential information for any purpose other than carrying out the provisions of this Agreement.
4. Contractor shall ensure that all of its officers, employees, representatives, consultants, subcontractors, or agents who have access to any confidential information for purposes of carrying out the provisions of this Agreement shall execute a confidentiality agreement incorporating all requirements of this Item II.P in a form acceptable to the State.

Q. HIPAA Business Associate Provision

The parties agree that Contractor is the State's Business Associate as defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations promulgated thereunder by the U.S. Department of Health and Human Services the "HIPAA Regulations"). The State wishes to disclose certain information to Contractor pursuant to the terms of this Agreement in connection with Contractor's performance of services under this Agreement. Some of this information may constitute Protected Health Information ("PHI") (as defined below). The parties intend to protect the privacy and provide for the security of PHI and ePHI (defined below) in compliance with HIPAA, the HIPAA Regulations, the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), and other applicable laws. The parties agree as follows:

1. Definitions.
 - a. **Breach** shall have the meaning given to such a term under the HITECH Act [42 U.S.C. Section 17921].
 - b. **Business Associate** shall have the meaning given to such term under the Privacy Rule and HITECH Act, including, but not limited to,

45 CFR Section 160.103 and 42 U.S.C. Section 17938.

- c. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 CFR Section 160.103.
- d. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to 45 CFR Section 164.501.
- e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 164.501.
- f. **Electronic PHI (ePHI)** shall have the meaning given to such term under the Privacy and Security Rules, including, but not limited to, 45 CFR Section 160.103.
- g. **Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 164.501.
- i. **Limited Data Set** shall have the meaning given to such term under 45 C.F.R. Section 164.514(e)(2).
- j. **Privacy Rule** shall mean the HIPAA Regulations relating to the privacy of PHI that is codified at 45 CFR Parts 160 and 164.
- k. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present, or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (ii) that identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 160.103. Protected Health Information includes ePHI.

- i. **Protected Information** shall mean PHI provided by the State or any of its contractors to Business Associate in connection with Business Associate's performance of services under this Agreement or created or received by Business Associate on the State's behalf in connection with Business Associate's performance of services under this Agreement.
 - m. **Security Incident** shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system pursuant to 45 CFR Section 164.304 and any guidance issued to such Act, including, but not limited to, 42 U.S.C. Section 17932(h).
 - n. **Security Rule** shall mean HIPAA Regulations relating to the security of PHI that is codified at 45 CFR Parts 160 and 164.
 - o. **Unsecured PHI** shall have the meaning given to such a term under the HITECH Act and any guidance issued to such Act, including, but not limited to, 42 U.S.C. Section 17932(h).
 - p. Such terms not defined herein shall have the meanings set forth in 45 CFR Section 160.103 and Section 160.501.
2. Obligations of Business Associate
 - a. Permitted Uses. Business Associate shall not use Protected Information except for the purpose of performing Business Associate's obligations under this Agreement and as permitted under this Agreement. Further, Business Associate shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by the State, except that Business Associate may use Protected Information (i) for the proper management and administration of Business Associate, (ii) to carry out the legal responsibilities of Business Associate (including without limitations, as required for Business Associate to comply with applicable professional standards and obligations), (iii) if required by law; or (iv) if requested by the State, for Data Aggregation purposes for the Health Care Operations of the State.

- b. Permitted Disclosures. Business Associate shall not disclose, and shall ensure that its directors, officers, employees, contractors and agents do not disclose, Protected Information except for the purpose of performing Business Associate's obligations under this Agreement and as permitted under this Agreement or in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if disclosed by the State, except that Business Associate may disclose Protected Information (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate (including, without limitations, as required for Business Associate to comply with applicable professional standards and obligations); (iii) if required by law; or (iv) if requested by the State, for Data Aggregation purposes for the Health Care Operations of the State.

To the extent that Business Associate discloses Protected Information to a third party, Business Associate must obtain, prior to making any such disclosure, (i) written approval from the State for such disclosure; (ii) reasonable written assurances from such third party that such Protected Information shall be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (iii) a written agreement from such third party to immediately notify Business Associate of any breaches of confidentiality of PHI or any incident involving the security or confidentiality of Protected Information as described in subparagraph (r), to the extent it has obtained knowledge of such an incident.

- c. Prohibited Uses and Disclosures. Business Associate shall not use or disclose Protected Information for fundraising or marketing purposes unless specifically directed in writing by the State and in compliance with the Privacy Rule and the HITECH Act. Business Associate shall not disclose Protected Information to a health plan for payment or Health Care Operations purposes if the patient has requested a restriction and has paid out of pocket in full for the health care item or service to which the PHI solely relates. Business Associate shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of the State and in compliance with 45 C.F.R. 164.508 and 42 U.S.C. 17935(d)(2); however, this prohibition shall not affect payment by the State to Business Associate for services provided

pursuant to the Agreement.

- d. **Restriction Agreements and Confidential Communications.** Business Associate shall comply with any agreement that the State makes that either (i) restricts use or disclosure of the State's Protected Information pursuant to 45 C.F.R. 164.522(a), or (ii) requires confidential communication about the State's Protected Information pursuant to 45 C.F.R. 164.522(b), provided that the State notifies Business Associate in writing of the restriction or confidential communication obligations that Business Associate must follow. The State shall promptly notify Business Associate in writing of the termination of any such restriction agreement or confidential communication requirement.
- e. **Appropriate Safeguards.** Business Associate shall implement and use administrative safeguards as required by 45 C.F.R. Section 164.308, physical safeguards as required by 45 C.F.R. Section 164.310, and technical safeguards as required by 45 C.F.R. Section 164.312 that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI, including ePHI, that Business Associate creates, receives, maintains, or transmits on behalf of the State as required by the HITECH Act. The purpose of such safeguards is to prevent the use or disclosure of PHI in violation of this Agreement. Such safeguards shall conform with, but are not limited to, the standards and implementation specifications required by the HIPAA Security Standards for the protection of ePHI. Business Associate shall comply with the policies and procedures and documentation requirements of the Security Rule, including, but not limited to 45 C.F.R. 164.316.
- f. **Reporting of Improper Use or Disclosure.** Business Associate shall report to the State in writing of any use or disclosure of Protected Information, including ePHI, other than as provided for by this Agreement within twenty-four (24) hours of which the Business Associate, its officers, directors, employees, contractors or agents or a third party to which Business Associate disclosed Protected Information becomes aware of such use or disclosure. Business Associate shall specifically report, within twenty-four (24) hours, any security incident relating to ePHI of which the Business Associate becomes aware, in electronic form, to the State.

- g. Business Associate's Agents. Business Associate shall ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such PHI and implement the safeguards required by paragraph e, above, with respect to Electronic PHI. Business Associate shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation.
- h. Access to Protected Information. Business Associate shall make Protected Information maintained by Business Associate or its agents or subcontractors in Designated Record Sets available to the State for inspection and copying within five (5) days of a request by the State to enable the State to fulfill its obligations under the Privacy Rule. If any individual requests access to Protected Information in a Designated Record Set directly from Business Associate, Business Associate shall, within two (2) days, forward such request to the State, and, if directed by the State, shall release the Protected Information in accordance with the requirements of 45 CFR 164.524. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable the State to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. 17935(e).
- i. Amendment of PHI. Within ten (10) days of receipt of a request from the State for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Business Associate or its agents or subcontractors shall make such Protected Information available to the State for amendment and incorporate any such amendment to enable the State to fulfill its obligations under the Privacy Rule. If any individual requests an amendment of Protected Information directly from Business Associate or its agents or subcontractors, Business Associate must notify the State in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by Business Associate or its agents or subcontractors shall be the responsibility of the State.
- j. Accounting Rights. Within ten (10) days of notice by the State of a request for an accounting of disclosures of Protected Information,

Business Associate and its agents or subcontractors shall make available to the State the information required to provide an accounting of disclosures to enable the State to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR Section 164.528 and the HITECH Act, including, but not limited to 42 U.S.C. 17935(c) as determined by the State. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years prior to the request, but not before the effective date of this Agreement. However, accounting of disclosures from an Electronic Health Record for treatment, payment, or Health Care Operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that Business Associate maintains an electronic health record and is subject to this requirement. At a minimum, such information shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. If the request for an accounting is delivered directly to Business Associate or its agents or subcontractors, Business Associate shall within ten (10) business days of a request forward it to the State in writing. It shall be the State's responsibility to prepare and deliver any such accounting requested. Business Associate shall implement an appropriate record keeping process to enable it to comply with the requirements of Exhibit D, Section II.Q. Business Associate shall not disclose any Protected Information except as set forth in Exhibit D, Section II.Q.2.b. of this Agreement. The provisions of this subparagraph shall survive the termination of this Agreement.

- k. Governmental Access to Records. Business Associate shall make its internal practices, books, and records relating to the use and disclosure of Protected Information available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining Business Associate's compliance with the Privacy Rule. Business Associate shall provide to the State a copy of any Protected Information that Business Associate provides to the Secretary concurrently with providing such Protected Information to

the Secretary.

- I. Data Ownership. Business Associate acknowledges that Business Associate has no ownership rights with respect to the Protected Information or Medical Information (as defined in Exhibit D, Section II.Q.2.u.) received from the State or any of its contractors. Business Associate further acknowledges that all encounter and claims data received by Business Associate shall be owned by the State.
- m. Minimum Necessary. Business Associate, and its agents or subcontractors, shall request, use, and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure. Business Associate shall limit, to the extent practicable, the use, disclosure, or request of PHI to the Limited Data Set. Business Associate understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary of DHHS with respect to what constitutes "minimum necessary."
- n. Breach Pattern or Practice. Pursuant to 42 U.S.C. Section 17934(b), if the Business Associate knows of a pattern of activity or practice of the State that constitutes a material breach or violation of the State's obligations under this Agreement, or of the Privacy and Security Rules or HITECH Act, the Business Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the Business Associate must terminate this Agreement and related contracts, if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. Business Associate shall provide written notice to the State of any pattern of activity or practice of the State that Business Associate believes constitutes a material breach or violation of the State under this subparagraph within five (5) days of discovery and shall meet with the State, upon its written request, to discuss or attempt to resolve the problems as one of the reasonable steps to cure the breach or end the violation.

Without limiting the rights of the parties pursuant to this Agreement, if Business Associate breaches its obligations under this Agreement, the State may, at its option: (a) exercise any of its rights of access and inspection under Exhibit D, Section II.Q.2.k. and Exhibit D, Section II.Q.2.p of this Agreement; (b) require Business Associate to submit to a plan of monitoring and reporting, as the State may

determine necessary to maintain compliance with this Agreement, and such plan shall be made part of this Agreement; or (c) terminate this Agreement, with or without opportunity to cure the breach. The State's remedies under Exhibit D and any other part of this Agreement or provision of law shall be cumulative, and the exercise of any remedy shall not preclude the exercise of any other.

- o. Retention of Protected Information. Notwithstanding Exhibit D, Section II.Q.4.c., Business Associates and its subcontractors or agents shall retain all Protected Information throughout the term of the Agreement. Upon termination of this Agreement, Business Associate shall follow the procedures set forth in Exhibit D, Section II.Q.4.c. of this Agreement with respect to the handling of Protected Information.
- p. Audits, Inspection, and Enforcement. Within ten (10) days of a written request by the State, Business Associate and its agents or subcontractors shall allow the State or its agents to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies, and procedures relating to the use or disclosure of Protected Information pursuant to this Agreement for the purpose of determining whether Business Associate has complied with this Agreement; provided, however, that (i) Business Associate and the State shall mutually agree in advance upon the scope, timing, and location of such an inspection; (ii) the State and its agents shall protect the confidentiality of all confidential and proprietary information of Business Associate to which the State and its agents has access to during the course of inspection; (iii) the State and its agents shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by Business Associate.

The fact that the State or its agent inspects, or fails to inspect, or has the right to inspect Business Associate's facilities, systems, books, records, agreements, policies, and procedures does not relieve Business Associate of its responsibility to comply with this Agreement, nor does the State's or its agents' (i) failure to detect, or (ii) detection, but failure to notify Business Associate or require Business Associate to cure any unsatisfactory practices, constitute acceptance of such practice or a waiver of the State's enforcement rights under this Agreement.

Business Associate shall notify the State within ten (10) days of learning that Business Associate has become the subject of an audit, compliance review, or compliance investigation by the Office for Civil Rights or other government agency.

- q. Business Associate's Insurance. Business Associate shall maintain the insurance coverage set forth in Exhibit D, Section II.B.
- r. Notification of Breach. During the term of this Agreement, Business Associate shall notify the State within twenty-four (24) hours of any suspected or actual Security Incident of which Business Associate becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Business Associate shall take (i) prompt corrective action to cure any such deficiencies, and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. The notice required by this subparagraph shall contain at least the following information:
 - (1) The nature of the Security Incident, including a brief description of the incident, whether in the Business Associate's opinion the incident involved Unsecured PHI and why, the date it occurred, and the date it was discovered;
 - (2) The Protected Information subject to the Security Incident and identity of each individual whose information may have been accessed, acquired, or disclosed during the incident;
 - (3) Who made the non-permitted use or disclosure and who received it;
 - (4) Corrective action taken by Business Associate to prevent further unauthorized use or access and to mitigate loss;
 - (5) Identify steps that individuals whose information was accessed should take to protect themselves;
 - (6) Any other information, including a written report, that the State may reasonably request.
- s. Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself, and any subcontractors, employees, or

agents assisting Business Associate in the performance of its obligations under this Agreement available to the State, at no cost to the State, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the State, its directors, officers, or employees based upon a claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy of health information, except where the Business Associate, or its subcontractor, employee, or agent is named as an adverse party.

- t. Compliance with Standard Transactions. If Business Associate conducts Standard Transactions (45 CFR Parts 160 and 162) with or on behalf of the State, Business Associate shall require any subcontractor or agent involved with the conduct of such Standard Transactions to comply with each applicable requirement of 45 CFR Part 162. Business Associate agrees to demonstrate compliance with the Transactions by allowing the State to test the Transactions and content requirements upon a mutually agreeable date. Business Associate shall not enter into, or permit its subcontractors or agents to enter into, any trading partner agreement in connection with the conduct of Standard Transactions for or on behalf of the State that:
 - (1) Changes the definition, data condition, or use of a data element or segment in a Standard Transaction;
 - (2) Adds any data elements or segments to the maximum defined data set;
 - (3) Uses any code or data element that is marked "not used" in the Standard Transaction's implementation specification or is not in the Standard Transaction's implementation specification; or
 - (4) Changes the meaning or intent of the Standard Transaction's implementation specification.
- u. Retention of Protected Information. Business Associate and its subcontractors or agents shall retain all PHI and Medical Information (as defined in the Confidentiality of Medical Information Act, California Civil Code Section 56 et. seq.) throughout the term of the Contract. Upon termination of the Contract, Business Associate shall follow the procedures set forth in Exhibit D, Section II.Q.4.c, of this

Agreement with respect to the handling of PHI.

- v. Electronic Health Information Security and Integrity. Business Associate shall develop, implement, maintain and use appropriate administrative technical and physical security measures in compliance with Section 1173(d) of the Social Security Act, Title 42, Section 1320d-2(d) of the United States Code and Title 45, Part 162 of the Code of Federal Regulations to preserve the integrity and confidentiality of all electronically maintained or transmitted data received from or on behalf of the State pertaining to an individual. Business Associate shall document and keep these security measures current and available for inspection upon request.

3. Obligations of the State.

- a. The State shall comply with HIPAA and the HITECH Act, along with any applicable state law in disclosing Protected Information to Business Associate in performance of this Agreement;
- b. The State shall notify Business Associate of any change in, or the withdrawal of, the consent or authorization of an individual regarding the use or disclosure of Protected Information to the extent that such change or withdrawal may affect Business Associate's use or disclosure of PHI; and
- d. The State shall not request Business Associate to use or disclose Protected Information in any manner that would not be permissible under HIPAA or the HITECH Act if done by the State.
- e. If the State knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of the Business Associate's obligations under this Agreement, or of the Privacy and Security Rules or HITECH Act, the State must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the State must terminate this Agreement and related contracts, if feasible or if termination is not feasible, report the problem to the Secretary of DHHS.

4. Termination.

- a. Breach. A breach by Business Associate of any material provision of this Agreement, as determined by the State, shall

constitute a breach of the Contract and shall provide grounds for immediate termination of the Contract by the State.

- b. Judicial or Administrative Proceedings. The State may terminate this Agreement, effective immediately, if (i) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA Regulations, HITECH Act, or other security or privacy laws, or (ii) a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, the HIPAA Regulations, HITECH Act, or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.
 - c. Effect of Termination. Upon termination of this Agreement for any reason, Business Associate shall, at the option of the State, return or destroy all Protected Information and Medical Information that Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information or Medical Information. If return or destruction is not feasible, as determined by the State, Business Associate shall continue to extend the protections of Exhibit D, Section II.Q.2 of this Agreement to such information, and limit further use of such PHI and Medical Information to those purposes that make the return or destruction of such PHI and Medical Information infeasible. If the State elects destruction of the PHI and Medical Information, Business Associate shall confirm in writing to the State that such PHI and Medical Information has been destroyed. The respective rights and obligations of Business Associate concerning HIPAA, the HIPAA Regulations, the Privacy Regulations, the Security Regulations and the HITECH Act and all applicable law and regulations shall survive the termination of this Agreement.
5. Disclaimer. The State makes no warranty or representation that compliance by Business Associate with this Agreement, HIPAA or the HIPAA Regulations, the HITECH Act or applicable state law shall be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI and Medical Information.
6. Certification. To the extent the State determines that an examination

of Business Associate's security practices is necessary to comply with the State's legal obligations regarding Protected Information and Medical Information, the State or its authorized agents or contractors may, at the State's expense, examine Business Associate's facilities, systems, procedures, and records as may be necessary to certify to the State the extent to which Business Associate's safeguards comply with HIPAA, the HITECH Act, the HIPAA regulations, and this Agreement.

7. Amendment to Comply with Law. The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that an amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, and other applicable laws relating to the security or confidentiality of PHI, including those related to medical and dental encounter data. The parties understand and agree that the State must receive satisfactory written assurance from Business Associate that Business Associate shall adequately safeguard all Protected Information. Upon the enactment of any law or regulation affecting the use and/or disclosure of PHI, or the publication of any court decision relating to any such law, or the publication of any interpretive policy, opinion or guidance of any governmental agency charged with the enforcement of any such law or regulation, the State may, by written notice to Business Associate, amend this Agreement to comply with such law or regulation, court decision or opinion. If Business Associate agrees with any such amendment, it shall so notify the State in writing within thirty (30) days of the written notice. If the parties are unable to agree on an amendment within thirty (30) days thereafter, the State may terminate this Agreement. Further, the State may terminate this Agreement if Business Associate does not enter into an amendment to this Agreement providing assurances regarding the safeguarding of PHI that the State, in its sole discretion, deems necessary to satisfy the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other applicable laws.
8. Interpretation: Any ambiguity in this Agreement shall be resolved to permit the State to comply with HIPAA, the HIPAA Regulations, the Privacy Regulations, the Security Regulations, the HITECH Act and

state statutes and regulations.

III. NEGATIVE COVENANTS

A. Conflict of Interest

1. Contractor shall not directly or indirectly receive any benefit from recommendations made to the State and shall disclose to the State any investment or economic interest of Contractor, or Contractor's personnel performing services under this Agreement which may be enhanced by the recommendations made to the State. Contractor acknowledges that the State, and its employees and consultants are subject to the provisions of the Fair Political Practices law of California (Gov. Code sec. 81000, et seq., and all regulations adopted thereunder, including, but not limited to, Cal. Code Regs, tit. 2, sec. 18700) and Contractor shall comply promptly with any requirement thereunder. Contractor shall require any of its personnel to whom the legal requirements apply to file statements of economic interests in compliance with the State's conflict of interest code (Cal. Code Regs., tit. 2, sec. 54400).
2. Contractor affirms that Contractor shall not use any information resulting from this Agreement to advantage Contractor's other business operations.

B. Publicity

No publicity release or announcement concerning this Agreement or the transactions contemplated herein shall be issued by Contractor without advance written approval by the State.

C. Services or Procurement Resulting From Agreement

Neither Contractor, nor any of its subsidiaries, officers or directors, may submit a bid or be awarded a contract for the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed to be an outgrowth of the advice or recommendations that Contractor provides under this Agreement.

IV. REPRESENTATIONS AND WARRANTIES

A. Power and Authority

Contractor represents and warrants that it has the power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution of this Agreement has been duly authorized by Contractor and no other proceeding on the part of Contractor is necessary to authorize this Agreement. Contractor has completed, obtained and performed all registrations, filings, approvals, authorizations, consents or examination required by any government or governmental authority for its acts contemplated by this Agreement.

B. Legal Proceedings

Except as specifically disclosed in writing to the State by Contractor prior to the date hereof, and approved by the State in writing, Contractor certifies that there are no suits, investigations, or other proceedings pending or threatened against Contractor which would have an effect on Contractor's ability to perform under this Agreement.

C. Financial Information

Contractor certifies that all financial information delivered to the State, including, without limitation, audited financial statements and related financial periodic information relating to Contractor, its parent corporation, its affiliates and subsidiaries, its partners or joint ventures, or any guarantor, fairly and accurately represents such financial condition and has been prepared in accordance with generally accepted accounting principles unless otherwise noted in such information. Contractor further certifies that its current and projected financial condition is adequate to enable Contractor to fully perform its duties and obligations under this Agreement during the full term of the Agreement. Unless Contractor so informs the State, Contractor certifies that no material adverse change in such financial condition has occurred.

D. Agreement Does Not Violate Law

Neither the execution of this Agreement nor the acts contemplated hereby

nor compliance by Contractor with any provisions hereof will:

1. Violate any provision of the charter documents of Contractor;
2. Violate any statute or law or ordinance or any judgment, decree, order, regulation or rule of any court or governmental authority applicable to Contractor; or
3. Violate, or be in conflict with, or constitute a default under, or permit the termination of, or require the consent of any person under, any agreement to which Contractor may be bound, the violation of which in the aggregate would have a material adverse effect on the properties, business, prospects, earnings, assets, liabilities or condition (financial or otherwise) of Contractor.

E. Due Organization

Contractor is duly organized, validly existing and in good standing under the laws of the State of its incorporation or organization.

F. Signature Authorization

The person signing this Agreement warrants that he/she is an agent of Contractor and is duly authorized to enter into this Agreement on behalf of Contractor.

G. Contractor Monitoring

Contractor is hereby notified that the State shall monitor and evaluate Contractor's performance under the terms and conditions of this Agreement and may submit an evaluation to the Department of General Services Office of Legal Services within sixty (60) days after the completion of Contractor's performance under this Agreement. Any negative evaluation resulting from unsatisfactory Contractor performance shall be filed with the Department of General Services. Contractor shall be notified and sent a copy of the evaluation within fifteen (15) days of filing the negative evaluation with the Department of General Services. Contractor shall then have thirty (30) days to prepare and send a statement defending his or her performance under this Agreement to the State and the Department of General Services. The evaluation and Contractor's response are not a public record. However, they

shall remain on file for thirty-six (36) months.

V. GENERAL PROVISIONS

A. Binding Effect

This Agreement, any instrument or agreement executed pursuant to this Agreement, and the rights, covenants, conditions and obligations of Contractor and the State contained therein, shall be binding upon the parties and their successors, assignees and legal representatives.

B. Taxes

The State is exempt from federal excise taxes and shall not make any payment for any personal property taxes levied on Contractor or any taxes levied on employee wages. The only taxes the State will pay on the services rendered pursuant to this Agreement are state and local sales or use taxes.

C. Incorporation of Amendments to Applicable Laws

Any references to sections of federal or state statutes or regulations shall be deemed to include a reference to any amendments thereof and any successor provisions thereto.

D. Ambiguities Not Held Against Drafter

This Agreement, having been freely and voluntarily negotiated by all parties, the rule that ambiguous contractual provisions are construed against the drafter of the provision shall be inapplicable to this Agreement.

E. Force Majeure

Neither party to this Agreement shall be liable for damages resulting from delayed or defective performance when such delays arise out of causes beyond the control and without the fault or negligence of the offending party. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the State in its sovereign capacity, fires, floods, power failure, disabling strikes, epidemics, quarantine restrictions, and freight embargoes.

F. Waivers

No delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any party of any right, power or privilege hereunder, nor any single or partial exercise of any right, power or privilege hereunder, preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

G. Titles/Section Headings

Titles or headings are not part of this Agreement, are for convenience of reference only, and shall have no effect on the construction or legal effect of this Agreement.

H. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

I. Cumulative Remedies

The rights and remedies provided herein are cumulative and are not exclusive of any rights or remedies, which any party may otherwise have at law or in equity.

J. Entire Agreement/Incorporated Documents/Order of Precedence

1. This Agreement contains all representations and the entire understanding between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda, or agreements are replaced in total by this Agreement.
2. This Agreement shall consist of the terms of this Agreement and all attached documents which are expressly incorporated herein.
3. In the event there are any inconsistencies or ambiguities among the terms of this Agreement and incorporated documents, the following order of precedence shall be used: (i) applicable laws; (ii) the terms

and conditions of this Agreement, including attachments; and (iii) any other provisions, terms, or materials incorporated herein.

K. Dispute Resolution

At the written request of either party, any dispute concerning a question of fact arising under the terms of this Agreement shall be brought to the attention of the Executive Director of the Managed Risk Medical Insurance Board, who, will render a decision regarding the dispute after which Contractor may assert its other rights and remedies within this Agreement or within a court of competent jurisdiction. The State may assert its rights and remedies within this Agreement or within a court of competent jurisdiction at any time without going through this dispute resolution process.

The State and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their responsibilities under this Agreement which are not affected by this dispute.

EXHIBIT E

FEDERAL PROVISIONS

I. CLEAN AIR AND WATER

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended. Violations shall be reported to the federal Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency.

II. EQUAL EMPLOYMENT OPPORTUNITY

Contractor shall use positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible.

Contractor shall comply with all requirements of federal Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, entitled "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by federal regulations (41 CFR Part 60, entitled "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor").

III. FEDERAL LOBBYING CERTIFICATION

Contractor shall comply with Section 1352 of Title 31, United States Code regarding prohibitions against using federal funds for lobbying. By signing this Contract, the signer certifies, on behalf of Contractor, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, 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 this funded contract, Federal grant, or cooperative agreement, and the extension, continuations, renewal, amendment, or modification of this contract, grant or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency 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 contract, grant, or cooperative agreement, Contractor shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

- C. Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontractors, sub-grants, and contracts under grants and cooperative agreements) of one hundred thousand dollars (\$100,000) or more, and that all sub-recipients 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 ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

IV. DEBARMENT CERTIFICATION

Contractor shall execute and comply with all requirements, terms and conditions set forth in Attachment A, Form of Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions. This Attachment is hereby incorporated into this Agreement.

V. ENVIRONMENTAL TOBACCO SMOKE CERTIFICATION

By signing this Agreement, Contractor certifies that it will comply with the requirements of Public Law 103-227, also known as the U.S. Pro-Children Act of 1994 (20 USC 6081 et seq.) and will therefore not allow smoking within any portion of any indoor facility used for the provision of health services for children. Contractor further agrees that it will insert this certification into any subcontracts which provide children's health services. Contractor understands that failure to comply with the provisions of this law may result in the imposition of an administrative compliance order on the responsible entity.

ATTACHMENT A

FORM OF CERTIFICATION REGARDING DEBARMENT, SUSPENSION INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

Instructions for Certification

1. By signing and submitting this certification as part of this Agreement, the lower tier participant, is providing the certification set out below.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The lower tier participant shall provide immediate written notice to the State-designated representative staff, as identified in this Agreement, if at any time the lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. The lower tier participant may contact the State-designated representative staff, as identified in this Agreement, for assistance in obtaining a copy of those regulations.
5. The lower tier participant agrees by signing this Agreement that, the covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, Subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The lower tier participant further agrees by signing this Agreement that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, Subpart 9.4, debarred, suspended, ineligible,

or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the methods and frequency by which it determines eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, Subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**FORM OF CERTIFICATION REGARDING DEBARMENT,
SUSPENSION INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER
TIER COVERED TRANSACTIONS**

- (1) The lower tier participant certifies, by submitting this Agreement and signing below, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any Federal department or agency.
- (2) Where the lower tier participant is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this Agreement.

Signature

Date

Printed Name & Title of Authorized Person to Sign

Contractor's Name

Attachment 2:
Health and Dental Plan Demographics as of December
2010

HFP Plan Name	Enrollment	Plan Address	HFP Plan Counties
Alameda Alliance	10,999	1240 South Loop Road Alameda, CA 94502	ALAMEDA
Anthem Blue Cross EPO	78,109	11050 Olson Drive Rancho Cordova, CA 95670	ALPINE, AMADOR, BUTTE, CALAVERAS, COLUSA, DEL NORTE, EL DORADO, GLENN, HUMBOLDT, IMPERIAL, INYO, KINGS, LAKE, LASSEN, MADERA, MARIN, MARIPOSA, MENDOCINO, MERCED, MODOC, MONO, NAPA, NEVADA, PLACER, PLUMAS, SAN BENITO, SAN LUIS OBISPO, SANTA CRUZ, SHASTA, SIERRA, SISKIYOU, SONOMA, SUTTER, TEHAMA, TRINITY, TULARE, TUOLUMNE, YUBA
Anthem Blue Cross HMO	121,774	11050 Olson Drive Rancho Cordova, CA 95670	FRESNO, KERN, LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO, SAN DIEGO, SAN JOAQUIN, SANTA CLARA, VENTURA
Blue Shield of CA EPO	4,649	6300 Canoga Avenue Woodland Hills, CA 91367	CALAVERAS, DEL NORTE, FRESNO, GLENN, HUMBOLDT, IMPERIAL, LAKE, MENDOCINO, SAN BENITO, SHATA, TEHAMA, TUOLUMNE, YUBA
Blue Shield of CA HMO	33,754	6301 Canoga Avenue Woodland Hills, CA 91367	LOS ANGELES, NEVADA, ORANGE, RIVERSIDE, SAN BERNARDINO, SAN FRANCISCO, SANTA BARBARA, TULARE, VENTURA
Cal Optima for Kids	38,475	1120 W. La Veta Avenue Orange, CA 92868	ORANGE
Care 1st	12,035	601 Potrero Grande Drive Monterey Park, CA 91755	LOS ANGELES
CenCal Health	8,522	4050 Calle Real Santa Barbara, CA 93110	SAN LUIS OBISPO, SANTA BARBARA
Central Coast Alliance for Health	21,194	1600 Green Hills Road Scotts Valley, CA 95066	MONTEREY, SANTA CRUZ
Community Health Group	25,102	740 Bay Boulevard Chula Vista, CA 91910	RIVERSIDE, SAN DIEGO
Community Health Plan	14,455	1000 S. Fremont Ave. Bldg A-9 East 2nd Floor, Unit 4 Alhambra, CA 91803	LOS ANGELES

HFP Plan Name	Enrollment	Plan Address	HFP Plan Counties
Contra Costa Health Plan	5,277	595 Center Ave. #100 Martinez, CA 94553	CONTRA COSTA
Health Net HMO	135,887	11971 Foundation Place Building D Rancho Cordova, CA 95670	EL DORADO, FRESNO, KERN, KINGS, LOS ANGELES, MADERA, MARIN, MERCED, NAPA, ORANGE, PLACER, RIVERSIDE, SACRAMENTO, SAN BERNARDINO, SAN DIEGO, SAN FRANCISCO, SAN JOAQUIN, SOLANO, STANISLAUS, TULARE, YOLO
Health Net Life EPO	1,495	11971 Foundation Place Building D Rancho Cordova, CA 95670	AMADOR, COLUSA, HUMBOLDT, IMPERIAL, MARIPOSA, MENDOCINO, PLUMAS, SIERRA, SUTTER, TEHAMA, YUBA
Health Plan of San Joaquin	25,264	7751 S. Manthey Road French Camp, CA 95231	MERCED, SACRAMENTO , SAN JOAQUIN, STANISLAUS
Health Plan of San Mateo	6,101	701 Gateway Boulevard #400 S. San Francisco, CA 94080	SAN MATEO
Inland Empire Health Plan	58,488	PO Box 19026 San Bernardino, CA 92423	RIVERSIDE, SAN BERNARDINO
Kaiser Permanente	177,341	Health Plan Regulatory Services 393 East Walnut Street 7th Floor Pasadena, CA 91188	ALAMEDA, AMADOR, CONTRA COSTA, EL DORADO, FRESNO, KERN, KINGS, LOS ANGELES, MADERA, MARIN, NAPA, ORANGE, PLACER, RIVERSIDE, SACRAMENTO, SAN BERNARDINO, SAN DIEGO, SAN FRANCISCO, SAN JOAQUIN, SAN MATEO, SANTA CLARA, SOLANO, SONOMA, VENTURA, YOLO
Kern Family Health Care	11,334	9700 Stockdale Highway Bakersfield, CA 93311	KERN
L.A. Care Health Plan	10,207	555 West Fifth Street, 29th Floor Los Angeles, CA 90013	LOS ANGELES
Molina Health Care	36,896	200 Oceangate, Suite 100 Long Beach, CA 90802	LOS ANGELES, RIVERSIDE, SACRAMENTO, SAN BERNARDINO, SAN DIEGO
Partnership HealthPlan of California	644	360 Campus Lane Suite 100 Fairfield, CA 94534	NAPA, SOLANO, SONOMA, YOLO
San Francisco Health Plan	7,746	201 Third Street 7th Floor San Francisco, CA 94103	SAN FRANCISCO

HFP Plan Name	Enrollment	Plan Address	HFP Plan Counties
Santa Clara Family Health Plan	17,854	210 E. Hacienda Ave. Campbell, CA 95008	SANTA CLARA
Ventura County Health Care Plan	11,076	2220 East Gonzales Road Suite 210B Oxnard, CA 93036	VENTURA

Dental Plan Name	Enrollment	Plan Address	Dental Plan Counties
ACCESS DENTAL	157,026	8890 Cal Center Drive Sacramento, CA 95826	ALAMEDA, BUTTE, CONTRA COSTA, EL DORADO, FRESNO, IMPERIAL, KERN, KINGS, LOS ANGELES, MARIN, MERCED, MONTEREY, NAPA, ORANGE, PLACER, RIVERSIDE, SACRAMENTO, SAN BERNARDINO, SAN DIEGO, SAN FRANCISCO, SAN JOAQUIN, SAN MATEO, SANTA CLARA, SHASTA, SOLANO, SONOMA, STANISLAUS, SUTTER, TULARE, VENTURA, YUBA
DELTA DENTAL	299,746	11155 International Drive Rancho Cordova, CA 95670	ALAMEDA, ALPINE, AMADOR, BUTTE, CALAVERAS, COLUSA, CONTRA COSTA, DEL NORTE, EL DORADO, FRESNO, GLENN, HUMBOLDT, IMPERIAL, INYO, KERN, KINGS, LAKE, LASSEN, LOS ANGELES, MARIN, MARIPOSA, MENDOCINO, MERCED, MODOC, MONO, MONTEREY, NAPA, NEVADA, ORANGE, PLACER, PLUMAS, RIVERSIDE, SACRAMENTO, SAN BENITO, SAN BERNARDINO, SAN DIEGO, SAN FRANCISCO, SAN JOAQUIN, SAN LUIS OBISPO, SAN MATEO, SANTA BARBARA, SANTA CLARA, SANTA CRUZ, SHASTA, SIERRA, SISKIYOU, SOLANO, SONOMA, STANISLAUS, SUTTER, TEHAMA, TRINITY, TULARE, VENTURA, YOLO, YUBA
HEALTH NET DENTAL	130,843	650 E. Hospitality Land San Bernardino, CA 92408	ALAMEDA, EL DORADO, FRESNO, IMPERIAL, KERN, KINGS, LOS ANGELES, MADERA, MARIN, MERCED, MONTEREY, NAPA, ORANGE, RIVERSIDE, SAN BERNARDINO, SAN DIEGO, SAN FRANCISCO, SAN JOAQUIN, SANTA CLARA, SANTA CRUZ, SONOMA, STANISLAUS, TULARE, VENTURA
PREMIER ACCESS	28,321	8890 Cal Center Drive Sacramento, CA 95826	ALPINE, AMADOR, BUTTE, CALAVERAS, COLUSA, DEL NORTE, EL DORADO, GLENN, HUMBOLDT, IMPERIAL, INYO, KINGS, LAKE, LASSEN, MADERA, MARIN, MARIPOSA, MENDOCINO, MODOC, MONTEREY,

Dental Plan Name	Enrollment	Plan Address	Dental Plan Counties
			NAPA, NEVADA, PLACER, PLUMAS, SAN BENITO, SANTA BARBARA, SANTA CLARA, SANTA CRUZ, SHASTA, SIERRA, SISKIYOU, SONOMA, TEHAMA, TRINITY, TULARE, YOLO, YUBA
SAFEGUARD DENTAL	141,971	95 Enterprise, Suite 200 Aliso Viejo, CA 92656	ALAMEDA, COLUSA, FRESNO, LOS ANGELES, ORANGE, RIVERSIDE, SACRAMENTO, SAN BERNARDINO, SAN DIEGO, SAN FRANCISCO, SAN MATEO, SANTA BARBARA, SOLANO, VENTURA
WESTERN DENTAL	116,771	530 South Main Street Orange, CA 92863	ALAMEDA, BUTTE, CONTRA COSTA, FRESNO, IMPERIAL, KERN, KINGS, LOS ANGELES, MADERA, MARIN, MERCED, MONTEREY, ORANGE, PLACER, RIVERSIDE, SACRAMENTO, SAN BENITO, SAN BERNARDINO, SAN DIEGO, SAN FRANCISCO, SAN JOAQUIN, SAN LUIS OBISPO, SAN MATEO, SANTA BARBARA, SANTA CLARA, SANTA CRUZ, SHASTA, SOLANO, SONOMA, STANISLAUS, SUTTER, TULARE, VENTURA
TOTAL	874,678		

Attachment 3:

2012 Performance Measures Calculated by HFP Health Plans

1. *CHILDHOOD IMMUNIZATION STATUS (CIS)*

The percentage of HFP enrolled children who turned two years old during the measurement year, were continuously enrolled for 12 months immediately preceding their second birthday with no more than one gap in enrollment of up to 45 days, and received the following immunizations on or before their second birthday:

- Four DTaP, DT or individual diphtheria and tetanus (DTaP) vaccinations.
- Three polio (IPV) vaccinations.
- One measles, mumps, and rubella (MMR) vaccination.
- Three H influenza type B (HiB) vaccinations.
- Three hepatitis B vaccinations.
- One chicken pox (VZV) vaccination.
- Four pneumococcal conjugate vaccinations.
- Two hepatitis A vaccinations.
- Three rotavirus vaccinations.
- Two influenza vaccinations.
- A combined rate including children who have received all of the above immunizations.

2. *IMMUNIZATIONS IN ADOLESCENTS (IMA)*

The percentage of HFP adolescents who turned thirteen years old during the measurement year, were continuously enrolled for 12 months immediately preceding their thirteenth birthday with no more than one gap in enrollment of up to 45 days, and received the following immunizations on or before their thirteenth birthday:

- One meningococcal conjugate or meningococcal polysaccharide vaccine.
- One tetanus, diphtheria toxoids and acellular pertussis vaccine (Tdap) or one tetanus, diphtheria toxoids vaccine (Td).
- A combined rate including adolescents who received all of the above immunizations.

3. *LEAD SCREENING IN CHILDREN (LSC)*

The percentage of HFP enrolled children who received at least one capillary or venous lead screening test on or before their second birthday.

4. CHILDREN AND ADOLESCENTS' ACCESS TO PRIMARY CARE PRACTITIONERS (CAP)

The percentage of HFP enrolled children who had at least one visit to a pediatrician, family physician, or other health care provider during the measurement year. Four separate cohorts are reported:

- Cohort 1: Children age 12 through 24 months who were continuously enrolled during the measurement year.
- Cohort 2: Children age 25 months through 6 years who were continuously enrolled during the measurement year.
- Cohort 3: Children age 7 through 11 years who were continuously enrolled during the measurement year and the prior year.
- Cohort 4: Adolescents age 12 through 18 years who were continuously enrolled during the measurement year and the prior year.

5. WELL-CHILD VISITS IN THE FIRST 15 MONTHS OF LIFE (W15)

The percentage of HFP enrolled children who turned 15 months old during the measurement year and received zero, one, two, three, four, five, or six or more well-child visits with a primary care practitioner during their first 15 months of life. Each eligible child is included in only one numerator (e.g., a child receiving six well-child visits would not be included in the rate for five or fewer visits.)

6. WELL- CHILD VISIT IN THE THIRD, FOURTH, FIFTH, AND SIXTH YEARS OF LIFE (W34)

The percentage of HFP enrolled children age 3 through 6 years who were continuously enrolled during the measurement year with no more than one gap in enrollment of up to 45 days and received one or more well-child visits with a primary care provider during the measurement year.

7. ADOLESCENT WELL-CARE VISITS (AWC)

The percentage of HFP enrolled adolescents age 12 through 18 years who were continuously enrolled during the measurement year with no more than one gap in enrollment of up to 45 days and received at least one comprehensive well-care visit with a primary care provider during the measurement year.

8. USE OF APPROPRIATE MEDICATIONS FOR ASTHMA (ASM)

The percentage of HFP enrolled children age 5 through 18 years who were identified as having persistent asthma and were appropriately prescribed medication during the measurement year.

9. *APPROPRIATE TREATMENT FOR CHILDREN WITH UPPER RESPIRATORY INFECTION (URI)*

The percentage of HFP enrolled children age 3 months through 18 years during the measurement year who were given a diagnosis of upper respiratory infection and were not dispensed an antibiotic prescription on or three days after the episode date.

10. *APPROPRIATE TESTING FOR CHILDREN WITH PHARYNGITIS (CWP)*

The percentage of HFP enrolled children age 2 through 18 years during the measurement year who were diagnosed with pharyngitis, prescribed an antibiotic and received a group A streptococcus (strep) test for the episode.

11. *CHLAMYDIA SCREENING IN WOMEN (CHL)*

The percentage of HFP enrolled women age 16 through 18 years who were identified as sexually active, were continuously enrolled during the measurement year with no more than one gap in enrollment of up to 45 days, and had at least one test for chlamydia during the measurement year.

12. *IDENTIFICATION OF ALCOHOL AND OTHER DRUG SERVICES (IAD)*

The number and percentage of HFP enrolled members, by age and sex, who received alcohol and other drug services during the measurement year in four categories:

- Any chemical dependency services (inpatient, intermediate or ambulatory).
- Inpatient chemical dependency services.
- Intermediate chemical dependency services.
- Ambulatory chemical dependency services.

13. *MENTAL HEALTH UTILIZATION (MPT)*

The number and percentage of HFP enrolled members, by age and sex, who received mental health services during the measurement year in four categories of service:

- Any mental health services (inpatient, intermediate or ambulatory).
- Inpatient mental health services.
- Intermediate mental health services.
- Ambulatory mental health services.

Attachment 4: Assurance of Independence

By submitting a signed Assurance of Independence, the External Quality Review Organization (EQRO) is declaring that it is currently in compliance with 42 CFR 48.354(c) *Independence*, and will remain so for the entire term of the contract.

The signature below confirms that the EQRO is in compliance with the above regulation and does not:

- Exert control over any of the Healthy Families Program (HFP) health plans nor do any of the HFP health plans exert control over the EQRO.
- Conduct on behalf of the California Managed Risk Medical Insurance Board (MRMIB) ongoing HFP managed care program operations related to oversight of the quality of HFP health plan services, except for the activities related to external quality reviews and to this solicitation and corresponding contract.
- Have a present or known future, direct or indirect financial relationship with a HFP health plan that it will review as an EQRO.

This form must be signed by a person who has the requisite knowledge to provide assurance and the authority to bind the Proposer to the maintenance of Independence as described above.

Name _____

Title _____

Organization Name _____

Address _____

Signature _____

**Attachment 5:
Cost Table**

LINE ITEM	ACTIVITY	CONTRACT YEAR 1	CONTRACT YEAR 2	CONTRACT YEAR 3	Hourly Rates
1	Project Workplan	\$	\$	\$	
2	Quarterly Reports	\$	\$	\$	
3	Kick-Off Meeting with HFP Health Plans	\$	\$	\$	
4A	Validation of 1 Performance Measure (Administrative Data Only)	\$	\$	\$	
4B	Validation of 1 Performance Measure (Hybrid Methodology)	\$	\$	\$	
5A	Validation of 1 QIP (Individual Health Plan)	\$	\$	\$	
5B	Validation of 1 QIP (Collaborative Amongst All Health Plans)	\$	\$	\$	
6	Compliance Review	\$	\$	\$	
7	Annual Detailed Technical Report ¹	\$	\$	\$	

¹ The Annual Detailed Technical Report should describe the aggregation of data obtained during the completion of the activities covered in the Scope of Work. It should describe the analysis of the data and the way in which conclusions were drawn as to the quality, timeliness and access to care furnished by each health plan, as well as recommendations for improving the quality of health care services and becoming compliant with program requirements.

LINE ITEM	ACTIVITY	CONTRACT YEAR 1	CONTRACT YEAR 2	CONTRACT YEAR 3	Hourly Rates
8	Annual Summary Report ²	\$	\$	\$	
9	PowerPoint Presentation ³	\$	\$	\$	
10	Assessment of Vendor Processing and Validation of Encounter Data with Report	\$			
11	Encounter Validation				
12	Facilitate Collaborative QIP with Report	\$	\$	\$	
13	Hourly Rate for Technical Assistance				\$
14	Health Plan Report Card	\$	\$	\$	
15	Coordinate and Facilitate Annual Quality Improvement Conference	\$	\$	\$	
16	Administration of the Consumer Assessment of Healthcare Providers and Systems and Report	\$	\$	\$	

² The Annual Summary Report should include the major findings of the EQRO, the strengths and weaknesses of each health plan with respect to the quality, timeliness and access to care, a comparison of health plan performance to that of other health plans and a general assessment of the HFP's progress in implementing the HFP Quality Assessment & Improvement Strategies.

³ This should be a presentation in Powerpoint (or an equivalent) for use in presenting an overview of the information in the Summary Report to the MRMIB Board, the health plans, and other stakeholder groups by the EQRO and/or MRMIB staff.

LINE ITEM	ACTIVITY	CONTRACT YEAR 1	CONTRACT YEAR 2	CONTRACT YEAR 3	Hourly Rates
17	Administration of the Consumer Assessment of Dental Plans Survey and Report	\$	\$	\$	
18	Administration of the Young Adult Health Care Survey and Report	\$	\$	\$	
19A	Hourly Rate for Consulting Services to MRMIB staff – Biostatistician				\$
19B	Hourly Rate for Consulting Services to MRMIB staff – Communication and Outreach Consultant				\$
19C	Hourly Rate for Consulting Services to MRMIB staff – Health Education Consultant				\$
19D	Hourly Rate for Consulting Services to MRMIB staff – Nurse Consultant				\$
19E	Hourly Rate for Consulting Services to MRMIB staff – Physician Consultant				\$
20A	Conduct Focus Study with Medical Chart Review and Report	\$	\$	\$	
20B	Conduct Focus Study without Medical Chart Review and with Report	\$	\$	\$	
Total		\$	\$	\$	

Attachment 6: Reference Form

Proposer References

List below three references for services performed within the last five years, which are similar to the scope of work to be performed in this contract. If three references cannot be provided, please explain why on an attached sheet of paper.

REFERENCE 1			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			
REFERENCE 2			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			
REFERENCE 3			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			