



Request For Qualifications For Provision of Shelter Services

**Allan Rawland, Director
Department of Behavioral Health**

**Department of Behavioral Health
Contracts Administration
268 West Hospitality Lane, Suite 400
San Bernardino, CA 92415-0026**

RFQ DBH 10-07

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I. INTRODUCTION

- A. Purpose - The County of San Bernardino Department of Behavioral Health (DBH), hereafter referred to as the "County", is seeking qualifications applications from interested and qualified organizations and firms to provide shelter services for County consumers experiencing temporary homelessness.

This RFQ is specifically for the following services/areas:

1. Transitional Age Youth (TAY) Shelter Services for Pregnant and/or Mothering TAY. Shelters are needed in the areas of the High Desert, West End, Colton, San Bernardino, Fontana, Rialto and Highland.
2. Transitional Age Youth (TAY) Shelter Services in the areas of San Bernardino and the West End (Rialto, Upland and Ontario).
3. Adult Forensic Population Shelter Services in the areas of Barstow and Victorville.

This Request for Qualifications (RFQ) is being released in order to ultimately allow DBH to compile a Vendor List from which service providers will be utilized on a case-by-case basis.

- B. Period of Agreement

The Agreement period will begin on July 1, 2010 through June 30, 2011. The County may, but is not obligated to, extend awarded agreement(s) for up to two additional one-year periods contingent on the availability of funds and Vendor(s)/Applicant(s) performance. The number of awards will be determined by the number and quality of the applications received.

- C. Minimum Vendor/Applicant Requirements – All Vendor(s)/Applicant(s) must:

1. Must attend the mandatory Vendor/Application Conference as noted in this RFQ.
2. Attend any required Technical Assistance Training. Time and place to be announced if necessary.
3. Have no record of unsatisfactory performance. Vendors who are or have been seriously deficient in current or recent agreement/contract performance, in the absence of circumstances properly beyond the control of the vendor, shall be presumed to be unable to meet this requirement.
4. Meet other presentation and participation requirements listed in this RFQ.

- D. Mandatory Vendor/Applicant Conference –

1. A mandatory Vendor/Applicant conference will be held on: **Wednesday, April 7, 2010 @ 1:30 p.m. at:**

County of San Bernardino
Behavioral Health Resource Center
850 E. Foothill Blvd.
Rialto, CA 92376

2. **Attendance at the conference is mandatory. No qualifications application will be accepted from any Vendor(s)/Applicant(s) who fails to attend the conference.**

E. Questions

Questions regarding the contents of this RFQ must be submitted in writing on or **before 12 noon (Pacific Standard Time) on April 13, 2010** and directed to the individual listed in **Section I, Paragraph F**. Faxes and e-mails are acceptable. The subject line of the e-mail must read: RFQ DBH 10-07. All questions will be answered and both the questions and answers will be posted on the County's Purchasing Web-Site.

- F. Correspondence - All correspondence, **including qualifications applications**, are to be submitted to:

**County of San Bernardino
Department of Behavioral Health
ATTN: Contracts Administration
RE: RFQ –DBH 10-07
268 West Hospitality Lane, Suite 400
San Bernardino, CA 92415-0026**

Contact person: Melissa Graham

Phone: (909) 382-3034

Email: mgraham@dbh.sbcounty.gov

Fax: (909) 382-3060

G. Admonition to Vendors/Applicants

Once the RFQ has been issued and during the evaluation process, the individual identified above is the sole contact point for any inquiries or information relating to this RFQ. Only if authorized by the County's contact may other County Staff provide information. Any violation of this procedure may be grounds for disqualification of the Vendor(s)/Applicant(s). It is the responsibility of the Vendor(s)/Applicant(s) to ensure that the RFQ responses arrive in a timely manner.

- H. Qualifications Application Submission Deadline - **All qualifications applications must be received at the address listed above no later than 4:00 PM on Wednesday, May 5, 2010.** Facsimile or electronically transmitted qualifications applications will not be accepted since they do not contain original signatures. Postmarks will not be accepted in lieu of actual receipt. Late qualifications applications will not be accepted or considered.

I. Local Preference Policy

The County of San Bernardino has adopted a preference for Vendors whose principal place of business is located within the boundaries of the County. A five percent (5%) preference may be applied prior to approval of any purchase or acquisition of services, equipment, goods, or supplies.

For purposes of the application of the local preference policy (County Policy 11 – 12), "principal place of business" is defined as the Vendor's main office (or headquarters) or a

major regional office. A "major regional office" is defined as a business location apart from the Vendor's main office (or headquarters) which:

- Has been issued a business license, if required, and has been established and open for a minimum of six months prior to the date that the approval authority authorizes the circulation of an Request for Proposal(s) (RFP), Request for Qualifications (RFQ), Quote(s) and Requests for Applications (RFA) for any contract, agreement, or purchase order to which it responds; and
- Can demonstrate on-going business activity in the field of endeavor on which the Vendor is proposing, from that office during the preceding six months; and
- Has a minimum of twenty-five percent (25%) of the Vendor's full time management employees and twenty-five percent (25%) of its full time regular employees working from the San Bernardino County location(s).

The County's Local Preference Policy means for example, if two Vendors are responding to this RFQ and if quality, service and ability to meet the County's needs are equal, County staff must determine if one of the Vendors is a local Vendor. If one of the Vendors is a local vendor, and its quoted price or cost for services, equipment, goods or supplies does not exceed five percent (5%) of the other Vendor's quoted price or cost, unless it is determined that an exemption applies, staff should recommend the local Vendor for the agreement award. See **Attachment G**.

II. QUALIFICATIONS APPLICATION TIMELINE

RFQ Release Date	March 23, 2010
Mandatory Conference	Wednesday, April 7, 2010 @ 1:30 p.m.
Deadline for submission of questions	April 13, 2010 @ 12 Noon
Tentative Date for Questions and Answers to be posted on County's Internet Site	April 19, 2010
Deadline for qualifications applications	May 5, 2010 @ 4:00 p.m.
Tentative date to send acceptance/denial letters to Vendor(s)/Applicant(s)	May 17, 2010
Deadline for appeals	May 25, 2010
Beginning date for Agreement(s)	July 1, 2010

III. QUALIFICATIONS APPLICATION CONDITIONS

A. Contingencies

Funding for this program is contingent on funding from the appropriate office of the State of California and is subject to reimbursement under Federal and State laws. This RFQ does not commit the County to award an Agreement. Cost, while not necessarily the primary factor used in the selection process, is an important factor. The County will award a Agreement based on the proposal that best meets the needs of the County.

B. Acceptance or Rejection of Qualification Applications

The County reserves the right to accept or reject any or all applications if the County determines it is in the best interest of the County to do so. The County will notify all Vendor(s)/Applicant(s), in writing, if the County rejects all qualification applications. The County also reserves the right to terminate this procurement process at any time.

C. Modifications

The County has the right to issue addenda or amendments to this RFQ if the County considers that additional clarifications are needed. Only those vendors represented at the proposal conference will receive addenda or amendments issued after the mandatory proposal conference.

D. Qualification Application Submission

To be considered, all qualifications applications must be submitted in the manner set forth in this RFQ. **It is the Vendor's/Applicant's responsibility to ensure that their proposal arrives on or before the specified time.** All qualification applications and materials submitted become the property of the County.

E. Incurred Costs

This RFQ does not commit the County to pay any costs incurred in the preparation of a proposal in response to this request and Vendor(s)/Applicant(s) agrees that all costs incurred in developing this proposal are the Vendor's/Applicant's responsibility.

F. Public Inspection

Applications will be maintained as confidential until issuance of agreements to selected Vendor(s)/Applicant(s). At that time proposals submitted in response to this RFQ become the property of the County of San Bernardino and are subject to the provisions of the California Public Records Act. This Act is designed to give reasonable public access to information in the possession of public agencies.

G. Clarifications

The county may require the potential Vendor(s)/Applicant(s) selected to provide additional information or clarifications on any area contained in this RFQ or which might be used to evaluate vendors. This may include cost, technical, or other clarifications needed to make a decision.

H. Independent Vendor(s)/Applicant(s)

Any Vendor(s)/Applicant(s) that is awarded an Agreement will be considered an independent vendor(s), wholly responsible for the manner in which it performs, and will assume exclusively the responsibility for the acts of its employees who will not be entitled to any rights and privileges of County employees nor be considered in any manner to be County employees.

I. Pre-Award On-Site Visits

Site visits may be conducted to verify information submitted in the RFQ and to determine if the proposed facilities are appropriate for the proposed services to be provided.

J. Level of Service

For any Agreement awarded as a result of the RFQ, no minimum number of consumers will be guaranteed by the County.

K. Termination of Awarded Agreement

The Agreement between the County and selected Vendor(s)/Applicant(s) will contain specific language which addresses the option of both the selected Vendor(s)/Applicant(s) (s) or County to terminate the Agreement without cause, termination for the convenience of the County, and termination for cause.

L. Priority Population

This RFQ is for Shelter Services for the following populations: Transitional Age Youth (TAY) Shelter Services for: a) regular TAY consumers, and b) Pregnant and/or Mothering TAY. Shelter services are also needed for Adult Forensic clients, which are consumers undergoing treatment as part of a court-monitored/ordered program.

M. Formal Agreement

Applicant will be required to enter into a formal agreement with the County. This RFQ sets forth some of the general provisions which will be included in the final agreement. In submitting a response to this RFQ applicant will be deemed to have agreed to each clause unless the proposal identifies an objection and County agrees to a change of language in writing.

Failure to raise any objections to the Agreement language at the time of submittal of a response to this RFQ will result in a waiver of objection to any of the Agreement language.

N. Final Authority - The final authority to award Agreement rests solely with the County of San Bernardino Board of Supervisors.

IV. PROGRAM REQUIREMENTS

A. Definitions

1. Request for Qualifications (RFQ) - The document used to solicit and evaluate interested applicants and/or agencies/organizations to determine if they possess the required qualifications and experience to provide specified services. The purpose of this RFQ process is to establish a list of pre-qualified service vendors. After eliminating respondents who do not meet the criteria of the RFQ, the County may issue Agreements to those certified as qualified.

2. Department of Behavioral Health (DBH) - The Department of Behavioral Health (DBH), under state law, provides mental health and alcohol and drug treatment and prevention services to County residents. In order to maintain a continuum of care, DBH operates, or contracts for the provision of, 24-hour care, day treatment, outpatient services, case management, and crisis and referral services. Community services are provided in all major County metropolitan areas and are readily accessible to most County residents.
3. Transitional Age Youth (TAY) – Homeless youth between the ages of 18-25 years.
4. Adult Forensic Client - Consumers undergoing treatment as part of a Mental Health Court ordered/monitored program.
5. Supervised Treatment After Release (STAR) – is a voluntary court-referred treatment program and is made a condition of probation for participants. STAR provides day treatment groups, individual therapy, drug and alcohol treatment, case management and medication support services.

B. Background

In 1985 the Department of Behavioral Health began its homeless shelter program because of the large number of homeless mentally ill on the streets. These individuals were filling the hospitals, jails and utilizing many County resources that resulted in extra costs. The expansion over the years to adding facilities that take placements “24/7” and adhere to the “Recovery Model” have also helped in further reducing the numbers going into the jails and/or hospitals. It is necessary to provide beds in all geographic areas of the County due to the fact that each community now has homeless mentally ill.

The passage of Proposition 63 (now known as the Mental Health Services Act or MHSA) provided other opportunities for the California Department of Mental Health (DMH) to redesign programs to better meet the needs of consumers. The program in San Bernardino County has assisted over 5000 individuals through the years in receiving shelter, finding housing, employment and a better quality of life.

By providing these services, the department will be fulfilling its mandate to serve the mentally ill residents of San Bernardino County. Consumers in need will be provided services in at appropriate level, thereby preventing significant homelessness and decreasing the number of incarcerations and costly hospitalizations among the mentally ill.

C. Program Description

1. Program Objective – The objective of this program is to provide shelter services to DBH consumers experiencing temporary homelessness due to mental illness or a co-occurring disorder of substance abuse and mental illness.
2. General Program Requirements – Organizations that submit qualifications applications shall be able to perform and provide the following:

- a) Maintain a living environment and physical plant conducive to quality care and treatment of mentally disabled individuals; which includes a safe and sanitary sleeping quarter, per individual, on a nightly basis.
- b) Provide clean, functional and safe toilet and shower facilities for residents.
- c) Provide locked storage areas for each resident; residents shall have access to this area upon request.
- d) Assure that bedroom doors do not have locks that restrict house manager or DBH staff access.
- e) Provide three (3) well-balanced meals and two separate (2) snacks on-site and on a daily basis. Providing "store-cards" is not sufficient for this requirement. Meals must be prepared on site and available to residents at pre-set times throughout the day. Meals and Snacks are two separate services and are to be served/made available at different times of the day.
- f) Shelter must have an in-service land-line phone system for emergencies and recovery-related activities. Phone must be in service throughout agreement period.
- g) Shelter must have on-site, working laundry facilities available to DBH consumers. This includes a clothes washer and clothes dryer.
- h) Vendor shall obtain an appropriate business license, Conditional Use Permit and/or Fire Clearance; as designated by local ordinances. All licenses and/or necessary permits will be current throughout the term of the agreement.
- i) Vendor shall collaborate with DBH regarding appropriateness of admission and discharge of consumers. DBH will determine the length of stay for consumers, and has sole authority to relocate a consumer if it deems necessary to better meet consumer needs.
- j) Vendor shall have house rules posted and copies available to each consumer upon admission and request.
- k) Vendor shall have an Emergency Disaster Plan (LIC 610A) posted in the home next to the phone along with an attached Earthquake Preparedness Checklist (LIC 9148). Posted list of contacts must include, but is not limited to:
 - Fire/Paramedics
 - Police/Sheriff
 - Hospital
 - Child Protective Services
 - Poison Control
- l) Vendor shall have a Home Evacuation Plan mapped, posted and provided to all consumers upon arrival.
- m) Vendor shall give DBH staff 24/7 access to consumers and facility for the purpose of evaluation regarding meeting consumer and program needs.

- n) Vendor shall hire a Facility Manager who shall have no previous convictions with any correlation to that position, which may cause risk to residents. Final determination for this requirement will be made by DBH Shelter Program Deputy Director.
- o) Facility Manager should have knowledge and ability to handle the oversight of general operation of the shelter, including but not limited to: housekeeping, meal preparation, assisting consumers with activities of daily living (hygiene, bed-making, keeping doctor/therapy/case management/ court appointments), assigning and overseeing chores of residents.
- p) If at any time during the agreement period it becomes necessary to change Facility Managers, DBH will be notified immediately by phone, and a new DOJ report will be provided to DBH within 7 working days of that verbal notification.

3. Additional Consumer Specific Site Requirements

Pregnant and/or Mothering (infant/toddler) TAY

- a) Shelter is not responsible for providing food for children; Mothers will provide food for infants/toddlers.
- b) Have appropriate bedding/furniture for infant/toddler; this would include cribs and/or smaller beds/bedding and high-chair for meals.
- c) Ensure that all home precautions have been made to assure safety of the infant/toddler. This includes but is not limited to: child locks on cabinets, review of "items within reach", furniture is secured appropriately, gates for stair access on both upper and lower floors, window shade/curtain ties, bathroom safety, kitchen safety, etc.
- d) Any outdoor play areas will be fenced.
- e) Shelter manager will be currently certified in infant/child CPR and First Aid; this certification must be maintained throughout agreement period. Copies of certifications shall be provided with RFQ application.
- f) If shelter has any water areas on the property; this includes but is not limited to: pool, spa, fish pond, etc., the area must have appropriate fencing of at least 5 feet in height with a self-latching gate that opens away from the pool or body of water. If using a cover, it must support the weight of an full grown adult and shall be kept covered **and** locked when the pool is not in use.
- g) Due to a high instance of injury, baby walkers, bouncers, jumpers and similar items will **NOT** be used for children in care and must be kept inaccessible.

Adult Forensic Consumers

- a) Shelter must have an **on-site live-in-home** facility manager.

- b) Shelter manager will be required to enforce any restrictions imposed on the consumer by DBH program staff. This includes notifying the STAR program when a resident placed on any restrictions has violated that restriction and any absences from the facility without authorization.
- c) Sites in Barstow and Victorville must provide round-trip transportation to consumers that have mandatory Court and treatment appointments. This requirement is expected to be twice per month for court as required, and once per week for any necessary therapy. Appropriate insurance must be obtained and maintained throughout agreement period.
- d) Site will be required to insure access to DBH Staff as well as consumer's probation officer at any time for unannounced inspections.
- e) Shelter shall have **no more than** two Forensic consumers sleeping in one bedroom.

V. AGREEMENT REQUIREMENTS

A. General

The Vendor(s)/Applicant(s) selected may be required to agree to the terms contained below. If the Vendor(s)/Applicant(s) has any objections, these objections must be addressed in the RFQ response to the County or the objections will be deemed to have been waived.

1. Representation of the County

In the performance of the Agreement, Vendor(s)/Applicant(s), its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of County of San Bernardino.

2. Agreement Primary Contact

The Vendor(s)/Applicant(s) will designate an individual to serve as the primary point of contact for the Agreement. Vendor(s)/Applicant(s) shall notify DBH when the primary contact will be unavailable/out of the office for one (1) or more business days. Vendor(s)/Applicant(s) or designee must respond to County inquiries within two (2) County business days.

3. Change of Address

Vendor(s)/Applicant(s) shall notify the County in writing of any change in mailing address within ten (10) days of the address change.

4. Agreement Assignability

Without the prior written consent of the County, the Agreement is not assignable by Vendor(s)/Applicant(s) either in whole or in part.

5. Agreement Amendments

Vendor(s)/Applicant(s) agrees any alterations, variations, modifications, or waivers of provisions of the Agreement shall be valid only when they have been reduced to

writing, duly signed and attached to the original of the Agreement and approved by the required persons and organizations.

6. Copyright

County shall have a royalty-free, non-exclusive and irrevocable license to publish, disclose, copy, translate, and otherwise use, copyright or patent, now and hereafter, all reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other materials or properties developed under a Agreement including those covered by copyright, and reserves the right to authorize others to use or reproduce such material. All such materials developed under the terms of an Agreement shall acknowledge San Bernardino County as the funding agency and Vendor(s)/Applicant(s) as the creator of the publication. No such materials or properties produced in whole or in part under an Agreement shall be subject to private use, copyright or patent right by Vendor(s)/Applicant(s) in the United States or in any other country without the express written consent of County. Copies of all educational and training materials, curricula, audio/visual aids, printed material, and periodicals, assembled pursuant to an Agreement awarded must be filed with County prior to publication. Vendor(s)/Applicant(s) shall receive written permission from County prior to publication of said training materials.

7. Attorney Costs & Fees

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Section V. B1.

8. Conflict of Interest

Vendor(s)/Applicant(s) shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Vendor(s)/Applicant(s) shall make a reasonable effort to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others such as those with whom they have family, business, or other ties.

Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and State law, including Section 23-602 (Code of Conduct) of Chapter 23-600 of the CDSS Manual of Policies and Procedures. In the event that County determines that a conflict of interest situation exists, any increase in costs associated with the conflict of interest situation may be disallowed by County and such conflict may constitute grounds for termination of an Agreement.

This provision shall not be construed to prohibit employment of persons with whom Vendor's/Applicant's officers, employees, or agents have family, business, or other

ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

9. Grievance Procedure

Proposer will ensure that staff are knowledgeable on the San Bernardino County Department of Behavioral Health Grievance Procedure (**Attachment F**) and ensure that any complaints by recipients are referred to the County in accordance with the procedure.

10. Confidentiality

Vendor(s)/Applicant(s) shall be required to protect from unauthorized use or disclosure names and other identifying information concerning persons receiving services pursuant to the Agreement, except for statistical information not identifying any participant. The Vendor(s)/Applicant(s) shall not use or disclose any identifying information for any other purpose other than carrying out the Vendor's/Applicant's obligations under the Agreement, except as may be otherwise required by law. This provision will remain in force even after the termination of the Agreement.

11. DBH Research Policy

Research involving the client cannot be conducted without the prior written approval of the Director of the Department of Behavioral Health. Any approved research must follow the guidelines in the DBH Research Policy.

12. Agreement Reimbursement

- a. Agreement will be funded from July 1, 2010 through June 30, 2011.
- b. County shall have the option to withhold payment, or any portion thereof, if Vendor(s)/Applicant(s) fails to meet timelines.
- c. Agreements are typically funded annually on a July 1 – June 30 fiscal year basis.
- d. Vendor(s)/Applicant(s) shall bill the County monthly in arrears on claim forms provided by the County, unless otherwise stated.
- e. Reimbursement rate for this procurement is \$30.00 per filled bed, per day. Forensic clients will receive an additional \$3.967 per day for incidental necessities. For those consumers who are in the process of obtaining SSI benefits, housing will be paid through Interim Assistance until approval of SSI, at such time payment will be paid from SSI benefits.
- f. Reimbursement to Vendor(s)/Applicant(s) shall be made monthly in arrears based on the actual cost of services provided during the service month for approved referrals from appropriate DBH staff only.
- g. Vendor(s)/Applicant(s) selected for Agreements shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Vendors designated checking account or other bank account. Vendor shall

promptly comply with directions and accurately complete forms provided by County required to process EFT payments.

13. Licenses and Permits

Vendor(s)/Applicant(s) will ensure that it has all necessary licenses and permits required by the laws of the United States, State of California, County and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Vendor(s)/Applicant(s) will notify County immediately of loss or suspension of any such licenses and permits.

14. Health and Safety

Vendor(s)/Applicant(s) shall comply with all applicable local health and safety clearances, including fire clearances, for each site where program services are provided under the terms of the Agreement.

15. Department of Justice Clearance

Vendor(s)/Applicant(s) shall obtain from the Department of Justice (DOJ) records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who is offered employment or volunteers for all positions in which he or she would have contact with a minor, the aged, the blind, the disabled or a domestic violence client, as provided for in Penal Code Section 11105.3.

Vendor shall hire a Facility Manager for whom vendor has obtained a Live Scan / Department of Justice Clearance, as specified above.

There are over 40 locations in San Bernardino County to obtain the Live Scan / DOJ Clearance. Any required fees for this service are the responsibility of the Vendor. Locations can be found by accessing the following link: <http://ag.ca.gov/fingerprints/publications/contact.php>.

Results of the Live Scan / DOJ Clearance shall be sent to the following DBH staff, by applicant, **prior** to any services being performed:

Melissa Graham, Staff Analyst II
Department of Behavioral Health, Administrative Services
268 West Hospitality Lane, Suite 400
San Bernardino, CA 92415-0026

16. The Excluded Parties List System (EPLS)

Neither Proposer nor its employees or subcontractors shall be named on the EPLS, which includes information regarding entities debarred, suspended, proposed for debarment, excluded or disqualified under the non-procurement common rule, or otherwise declared ineligible from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits. The EPLS can be accessed at <http://www.epls.gov/>. This information may include names, addresses, DUNS numbers, Social Security Numbers (SSNs), Employer Identification Numbers or other Taxpayer Identification Numbers, if available and deemed appropriate and permissible to publish by the agency taking the action.

Please be aware that although United States General Service Administration operates this system, individual agencies are responsible for the timely reporting, maintenance, and accuracy of their data.

17. Health Insurance Portability and Accountability Act

Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), regulations have been promulgated governing the privacy of individually identifiable health information. The HIPAA Privacy Regulations specify requirements with respect to agreements between an entity covered under the HIPAA Privacy Regulations and its Business Associates. A Business Associate is defined as a party that performs certain services on behalf of, or provides certain services for, a Covered Entity and, in conjunction therewith, gains access to individually identifiable health information. Therefore, in accordance with the HIPAA Privacy Regulations, Vendor(s)/Applicant(s) shall comply with the terms and conditions as set forth in the attached Business Associate Agreement (**Attachment D**), hereby incorporated by this reference.

18. Pro-Children Act of 1994

Vendor(s)/Applicant(s) will comply with Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994.

19. Environmental Regulations

EPA Regulations - If the amount available to Vendor(s)/Applicant(s) under the Agreement exceeds \$100,000, Vendor(s)/Applicant(s) will agree to comply with the Clean Air Act (42 USC 7606), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738 and Environmental Protection Agency regulations (40 CFR, Part 15).

State Energy Conservation Clause - Vendor(s)/Applicant(s) shall observe the mandatory standards and policies relating to energy efficiency in the State Energy Conservation Plan (Title 20, Division 2, Chapter 4, California Code of Regulations).

20. Recycled Paper Products

The County has adopted a recycled product purchasing standards policy (11-10), which requires Vendors to use recycled paper for proposals and for any printed or photocopied material created as a result of a agreement with the County. The policy also requires Vendors to use both sides of the paper sheets for reports submitted to the County whenever practicable.

21. Americans with Disabilities Act

Vendor(s)/Applicant(s) shall comply with all applicable provisions of the Americans with Disabilities Act (ADA). The ADA can be accessed at <http://www.usdoj.gov/crt/ada/adahom1.htm>.

22. Public Accessibility

Vendor(s)/Applicant(s) shall ensure that services provided are accessible by public transportation.

23. Notification

In the event of a problem or potential problem that will impact the quality or quantity of work or the level of performance under this Agreement, notification will be made within one working day, in writing and by telephone to the County.

24. Termination for Convenience

The County for its convenience may terminate the Agreement in whole or in part upon thirty (30) calendar day's written notice. If such termination is effected, an equitable adjustment in the price provided for in this Agreement shall be made. Such adjustment shall provide for payment to the Vendor(s)/Applicant(s) for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Vendor(s)/Applicant(s) shall promptly discontinue services unless the notice directs otherwise. Vendor(s)/Applicant(s) shall deliver promptly to County and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

25. Venue

The venue of any action or claim brought by any party to the Agreement will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

26. Legality and Severability

The parties' actions under the Agreement shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. If a provision of the Agreement is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

27. Inaccuracies or Misrepresentations

If in the course of the RFP process or in the administration of a resulting Agreement, the County determines that the Proposer has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, the Proposer may be terminated from the RFP process or in the event an Agreement has been awarded, the Agreement may be immediately terminated.

28. American Recovery and Reinvestment Act (ARRA)

As any resulting agreement from this RFP, may be funded in whole or in part with funds provided by the American Recovery and Reinvestment Act of 2009 (ARRA), signed into law on February 17, 2009, Vendor shall comply with the terms and conditions as set forth and hereby incorporated by this reference as **Attachment E**.

29. Cultural Competency

The State Department of Mental Health (DMH) mandates counties to develop and implement a Cultural Competency Plan. This applies to all DBH Services. Policies and procedures and all services must be culturally and linguistically appropriate. Agreement agencies will be included in the implementation process of the most recent state approved cultural competency plan for the County of San Bernardino and shall adhere to all cultural competency standards and requirements.

Cultural and Linguistic Competency. Cultural competence is defined as a set of congruent practice behaviors, attitudes, and policies that come together in a system, agency, or among consumer vendors and professionals that enable that system, agency, or those professional and consumer vendors to work effectively in cross-cultural situations.

- a. The Vendor(s)/Applicant(s) shall be required to assess the demographic make-up and population trends of its service area to identify the cultural and linguistic needs of the eligible beneficiary population. Such studies are critical to designing and planning for providing appropriate and effective behavioral health and substance abuse services.
- b. The DBH recognizes that cultural competence is a goal toward which professionals, agencies, and systems should strive. Becoming culturally competent is a developmental process and incorporates at all levels the importance of culture, the assessment of cross-cultural relations, vigilance towards the dynamics that result from cultural differences, the expansion of cultural knowledge, and the adaptation of services to meet culturally-unique needs. Providing medically necessary specialty behavioral health and substance abuse services in a culturally competent manner is fundamental in any effort to ensure success of high quality and cost-effective behavioral health and substance abuse services. Offering those services in a manner that fails to achieve its intended result due to cultural and linguistic barriers is not cost-effective.
- c. To assist the Vendor's/Applicant's efforts towards cultural and linguistic competency, the DBH shall provide the following:
 - (1) Technical assistance to the Vendor(s)/Applicant(s) regarding cultural competency implementation.
 - (2) Demographic information to the Vendor(s)/Applicant(s) on service area for services planning.

- (3) Mandatory cultural competency training for DBH and Vendor(s)/Applicant(s) personnel. Vendor(s)/Applicant(s) staff is required to attend at least one cultural competency training per year.
- (4) Interpreter training for DBH and Vendor's/Applicant's personnel.
- (5) Technical assistance for the Vendor(s)/Applicant(s) in translating behavioral health and substance abuse services information to the DBH's threshold language (Spanish).

30. Oath of Confidentiality

Vendor(s)/Applicant(s) who are awarded agreements through this RFQ process may be required to sign the Department of Behavioral Health Non-Staff Oath of Confidentiality.

31. Taxes

County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Vendor or any taxes levied on employee wages. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Agreement.

32. Release of Information

No news releases, advertisements, public announcements or photographs arising out of this Agreement or Vendor's relationship with County may be made or used without prior written approval of the County.

B. INDEMNIFICATION AND INSURANCE

- 1. Indemnification – The Vendor(s)/Applicant(s) agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The Vendor's/Applicant's indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.
- 2. Insurance – The Vendor(s)/Applicant(s) agrees to provide insurance set forth in accordance with the requirements herein. If the Vendor(s)/Applicant(s) uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Vendor(s)/Applicant(s) agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the agreement services.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Vendor(s)/Applicant(s) shall secure and maintain throughout the agreement term the following types of insurance with limits as shown:

- a. Worker's Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Vendor(s)/Applicant(s) and all risks to such persons under this agreement.

If Vendor(s)/Applicant(s) has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Worker's Compensation coverage will be waived by the County's Director of Risk Management.

With respect to Vendor(s)/Applicant(s) that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Worker's Compensation insurance.

- b. Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- 1) Premises operations and mobile equipment.
- 2) Products and completed operations.
- 3) Broad form property damage (including completed operations)
- 4) Explosion, collapse and underground hazards.
- 5) Personal Injury
- 6) Contractual liability
- 7) \$2,000,000 general aggregate limit

- c. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Vendor(s)/Applicant(s) is transporting one or more non-employee passengers in performance of agreement services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Vendor(s)/Applicant(s) owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

- d. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability

- e. Professional Services Requirements

- 1) Professional Liability – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim or occurrence and two million (\$2,000,000) aggregate limits

or

Errors and Omissions Liability Insurance with limits of not less than one million (\$1,000,000) and two million (\$2,000,000) aggregate limits

or

Directors and Officers Insurance coverage with limits of not less than one million (\$1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

- 2) If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the start of the contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of five (5) years after contract completion.

The coverage described above is not required for contractors or consultants providing services which are not relied upon by County departments for decision making. These would include trainers or instructors, expert witnesses, statisticians, etc.

3. Additional Insured - All policies, except for the Worker’s Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the County and its officers, employees, agents and volunteers as additional insured’s with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

4. Waiver of Subrogation Rights – The Vendor(s)/Applicant(s) shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, vendors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Vendor(s)/Applicant(s) and Vendor's/Applicant's employees or agents from waiving the right of subrogation prior to a loss or claim. The Vendor(s)/Applicant(s) hereby waives all rights to subrogation against the County.
5. Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.
6. Severability of Interests – The Vendor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Vendor and the County or between the County and any other insured or additional insured under the policy.
7. Proof of Coverage – The Vendor(s)/Applicant(s) shall furnish Certificates of Insurance to the County Department administering the agreement evidencing the insurance coverage, including endorsements, as required, prior to the commencements of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Vendor(s)/Applicant(s) shall maintain such insurance from the time Vendor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this agreement, the Vendor(s)/Applicant(s) shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.
8. Acceptability of Insurance Carrier – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-VII".
9. Deductibles and Self-Insured Retention – Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.
10. Failure to Procure Coverage – In the event that any policy of insurance required under this agreement does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Vendor or County payments to the Vendor(s)/Applicant(s) will be reduced to pay for County purchased insurance.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this agreement. Vendor(s)/Applicant(s) agree to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

11. Insurance Review – Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interest of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this agreement. Vendor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

C. RIGHT TO MONITOR AND AUDIT

1. Right to Monitor

County or any subdivision or appointee thereof, and the State of California or any subdivision or appointee thereof, including the Auditor General, shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Vendor(s)/Applicant(s) in the delivery of services provided under the Agreement. Full cooperation shall be given by Vendor(s)/Applicant(s) in any auditing or monitoring conducted.

Vendor(s)/Applicant(s) shall cooperate with County in the implementation, monitoring and evaluation of this agreement and comply with any and all reporting requirements established by County.

2. Availability of Records

Vendor(s)/Applicant(s) shall maintain all records and management books pertaining to local service delivery and demonstrate accountability for Agreement performance

and maintain all fiscal, statistical, and management books and records pertaining to the program.

Records, should include, but are not limited to, monthly summary sheets, sign-in sheets, and other primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must also comply with the appropriate Office of Management and Budget (OMB) Circulars which state the administrative requirements, cost principles and other standards for accountancy and shall be retained for at least seven years from the date of final payment or final settlement, or until audit findings are resolved, whichever is longer.

All records shall be complete and current and comply with all Agreement requirements. Failure to maintain acceptable records per the preceding requirements shall be considered grounds for withholding of payments for billings submitted and for termination of an Agreement.

The Vendor(s)/Applicant(s) shall maintain consumer and community service records in compliance with all regulations set forth by the State Department of Mental Health (DMH) and provide access to clinical records by DBH staff.

Vendor(s)/Applicant(s) shall agree to maintain and retain all appropriate service and financial records for a period of at least seven (7) years, or until audit findings are resolved, whichever is later.

3. Assistance by Vendor(s)/Applicant(s)

Vendor(s)/Applicant(s) shall provide all reasonable facilities and assistance for the safety and convenience of County's representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work of the Vendor(s)/Applicant(s).

VI. EQUAL EMPLOYMENT OPPORTUNITY/CIVIL RIGHTS

A. Equal Employment Opportunity Program

Vendor(s)/Applicant(s) agrees to comply with the provisions of the Equal Employment Opportunity Program of the County of San Bernardino and rules and regulations adopted pursuant thereto: Executive Order 11246, as amended by Executive Order 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964 (and Division 21 of the California Department of Social Services Manual of Policies and Procedures and California Welfare and Institutions Code, Section 10000), the California Fair Employment and Housing Act, and other applicable Federal, State, and County laws, regulations and policies relating to equal employment or social services to welfare recipients, including laws and regulations hereafter enacted.

The Vendor(s)/Applicant(s) shall not unlawfully discriminate against any employee, applicant for employment, or service recipient on the basis of race, color, national origin or ancestry, religion, sex, sexual orientation, marital status, age, political affiliation or

disability. Information on the above rules and regulations may be obtained from DBH Contracts Unit.

B. Civil Rights Compliance

The Vendor(s)/Applicant(s) shall develop and maintain internal policies and procedures to assure compliance with each factor outlined by state regulation. **These policies must be developed into a Civil Rights Plan, which is to be on file with DBH Contracts Unit within 30 days of awarding of the Agreement.** The Plan must address prohibition of discriminatory practices, accessibility, language services, staff development and training, dissemination of information, complaints of discrimination, compliance review, and duties of the Civil Rights Liaison. Upon request, DBH will supply a sample of the Plan format. The Vendor(s)/Applicant(s) will be monitored by DBH for compliance with provisions of its Civil Rights Plan.

VII. FORMER COUNTY OFFICIALS

The Vendor(s)/Applicant(s) shall provide information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent its business. The information provided must include a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. This should also include the employment and/or representative capacity and the dates these individuals began employment with or representation of the business. For purposes of this section, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

Failure to provide this information may result in the response to the RFQ being deemed non-responsive.

VIII. IMPROPER CONSIDERATION

The Vendor(s)/Applicant(s) shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this RFQ.

The County, by written notice, may immediately reject any proposal or terminate any Agreement if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process or any solicitation for consideration was not reported. This prohibition shall apply to any amendment, extension or evaluation process once a Agreement has been awarded.

Vendor(s)/Applicant(s) shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Vendor(s)/Applicant(s). The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

IX. DISCLOSURE OF CRIMINAL AND CIVIL PROCEEDINGS

The County reserves the right to request the information described herein from the Vendor(s)/Applicant(s) selected for Agreement award. Failure to provide the information may result in a disqualification from the selection process and no award of Agreement to the Vendor(s)/Applicant(s). The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The selected Vendor(s)/Applicant(s) also may be requested to provide information to clarify initial responses. Negative information provided or discovered may result in disqualification from the selection process and no award of Agreement.

The selected Vendor(s)/Applicant(s) may be asked to disclose whether the agency or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Vendor(s)/Applicant(s) will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the selected Vendor(s)/Applicant(s) may be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Vendor(s)/Applicant(s) will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For the purposes of this provision "key employees" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

X. CALIFORNIA PUBLIC RECORDS ACT

All information submitted in the proposal or in response to request for additional information is subject to disclosure under the provisions of the California Public Records Act, Government Code Section 6250 and following. Proposals may contain financial or other data, which constitutes a trade secret. To protect such data from disclosure, Vendor(s)/Applicant(s) should specifically identify the pages that contain confidential information by properly marking the applicable pages and inserting the following notice on the front of its response:

NOTICE

The data on pages_____ of this Proposal response, identified by an asterisk (*) or marked along the margin with a vertical line, contains information, which are trade secrets. We request that such data be used only for the evaluation of our

response, but understand that disclosure will be limited to the extent that the County of San Bernardino determines is proper under federal, state, and local law.

The proprietary or confidential data shall be readily separable from the Proposal in order to facilitate eventual public inspection of the non-confidential portion of the Proposal.

The County assumes no responsibility for disclosure or use of unmarked data for any purpose. In the event disclosure of properly marked data is requested, the Vendor(s)/Applicant(s) will be advised of the request and may expeditiously submit to the County a detailed statement indicating the reasons it has for believing that the information is exempt from disclosure under federal, state and local law. This statement will be used by the County in making its determination as to whether or not disclosure is proper under federal, state and local law.

The County will exercise care in applying this confidentiality standard but will not be held liable for any damage or injury, which may result from any disclosure that may occur.

XI. QUALIFICATIONS APPLICATION SUBMISSION

A. General

1. All interested and qualified Vendor(s)/Applicant(s) are invited to submit a Qualifications Application for consideration (**Attachment A, B & C**).
2. Qualifications applications must be submitted in the format described below. Qualifications applications are to be prepared in such a way as to provide a straightforward, concise description of capabilities to satisfy the requirements of this RFQ. Expensive bindings, colored displays, promotional materials, etc., are neither necessary nor desired. Emphasis should be concentrated on conformance to the RFQ instructions, responsiveness to the RFQ requirements, and on completeness and clarity of content.
3. Qualifications Applications must be complete in all respects as required in this section. An application may not be considered if it is conditional or incomplete.
4. **Qualifications applications must be received no later than Wednesday, May 5, 2010 at the designated location/time as specified in Section I, Paragraph F - Proposal Submission Deadline.**
5. All qualifications applications and materials submitted become the property of the County.

B. Qualifications Application Presentation

1. **One original, with original signatures**, and five (5) unbound copies of the written application are required. (For a total of six applications) The original copy must be clearly marked "**Master Copy**". If the hard copy of the proposal is not clearly marked "**Master Copy**", the proposal may be rejected. If discrepancies are found between the original and electronic copy of the proposal, the proposal may be rejected. However, if not rejected, the Master Copy, also known as the hard copy, will provide the basis for resolving such discrepancies.

2. The package containing the original and copies must be sealed and marked with the Vendor's/Applicant's name and "**CONFIDENTIAL – Shelter Services RFQ DBH 10-07.**"
 3. Any additional information in regards to the Qualifications Applications must be submitted on 8 1/2" by 11" recycled paper with double sided printing, unless specifically shown to be impracticable, with no less than 1/2" top, bottom, left and right margins. Qualifications applications must be typed or prepared with word processing equipment and double-spaced. Type face must be no more than 12 characters per inch. Each page must be clearly and consecutively numbered at the bottom center of the page.
 4. The County has adopted a recycled product purchasing standards policy which requires Vendor(s)/Applicant(s) to use recycled paper for qualifications applications and for any printed or photocopied material created as a result of a Agreement with the County. The policy also requires Vendor(s)/Applicant(s) to use both sides of paper sheets for reports submitted to the County whenever practical.
- C. Qualifications Application Format - Response to this Request for Qualifications must be on the attached documents, with any additional information attached to the packet. The Qualifications Application includes **Attachment A, Attachment B, Attachment C** and any additional information submitted.
1. Statements of Certification - Include the following in this section of the application:

Review and complete **Attachment A.**
 2. Qualification Application - **Attachment B.**

Should include all necessary information to complete the Qualification Application; pages 1 through 6 and any additional pages, which may be included if necessary.
 3. Statements of Experience - Include the following in this section of the proposal:

Review and complete **Attachment C.**
 4. Insurance - Submit evidence of ability to acquire insurance in the amounts and coverages stated in **Section V, Paragraph B** - Indemnification and Insurance Requirements.

XII. QUALIFICATIONS APPLICATION EVALUATION AND SELECTION

A. Evaluation Process

All qualifications applications will be subject to a standard review process developed by County. A primary consideration shall be the effectiveness of the agency or organization in the delivery of comparable or related services based on demonstrated performance. **The evaluation process is a closed process until its completion.**

B. Evaluation Criteria

1. Initial Review - All qualifications applications will be initially evaluated to determine if they meet the following minimum requirements:
 - a) The application must be **complete**, in the required format, and be in compliance with all the requirements of this RFQ.
 - b) Prospective vendors must meet the requirements as stated in the Minimum Vendor/Applicant Requirements as outlined in **Section I, Paragraph C**.

Failure to meet **any** of these requirements **will** result in a rejected Qualifications Application.

2. Evaluation - Qualifications applications meeting the above requirements will be evaluated on the basis of the following criteria:
 - a) Experience.
 - b) Qualifications of personnel.
 - c) Ability to meet the needs of County consumers.

Selection will be based on determination of which proposal will best meet the needs of the County and the requirements of this RFQ.

C. Qualifications Application Acceptance

Agreement(s) will be awarded based on a competitive selection of qualifications applications received.

The contents of the Qualifications Application of the successful Vendor(s)/Applicant(s) will become contractual obligations and failure to accept these obligations in a contractual agreement may result in cancellation of the award.

D. Protests

Vendor(s)/Applicant(s) may protest the recommended contracts, provided the protest is in writing, contains the RFQ number, is delivered to the address listed in **Section I, Paragraph F** of this RFQ, and submitted within ten (10) calendar days of the date on the notification of application status.

Grounds for a protest are that the County failed to follow the selection procedures and adhere to requirements specified in the RFQ or any addenda or amendments; there has been a violation of conflict of interest as provided by California Government Code Section 87100 et seq.; or violation of State or Federal law. Protests will not be accepted on any other grounds. In event of a protest, a valid and accepted protest(s) will be reviewed by a panel designated by the County Administrative Office or designee.

The County will consider only those specific issues addressed in the written valid and accepted protest(s). A written response will be directed to the protesting Vendor(s)/Applicant(s) within fourteen (14) calendar days of receipt of the protest, advising of the decision with regard to the protest and the basis for the decision.

STATEMENTS OF CERTIFICATION

The following statements are incorporated as part of the application in response to the County of San Bernardino **RFQ DBH 10-07 Shelter Services**

Statement		Agree (Initial)	Disagree (Initial and attach explanation)
1.	Services will be provided as described in the Qualifications Application no later than TBD.		
2.	The offer made in the Qualifications Application is firm and binding for 120 days from the date the application is opened and recorded.		
3.	All declarations in the application and any attachments are true and shall constitute a warranty, the falsity of which shall entitle the County to pursue any remedy by law.		
4.	All aspects of the RFQ and the Qualifications Application submitted shall be binding if the proposal is selected and an Agreement awarded.		
5.	The County will be provided with any other information that the County determines is necessary for an accurate determination of the Vendor(s)/Applicant(s)'s ability to perform services as proposed.		
6.	If selected, the vendor agrees to comply with all applicable rules, laws, and regulations.		

Signature

Date

Print Name

Company/Agency

Address



**REQUEST FOR QUALIFICATIONS (RFQ)
SHELTER SERVICES
QUALIFICATIONS APPLICATION – RFQ DBH 10-07**

1. Submitted by (Applicant's Legal Name or Legal Name of Agency/Organization):

2. Business Address: _____
3. Telephone Number: _____ Fax Number: _____
4. Contact Person: _____ Title: _____
5. By submitting the Qualifications Application in response to **RFQ DBH 10-07 – Shelter Services**, the applicant or agency/organization understands and agrees with the following statements:
 - a. All costs for developing and completing the Qualifications Application and supporting documents are the responsibility of the applicant or agency/organization and will not be chargeable to the County of San Bernardino.
 - b. The Qualifications Application and supporting documents submitted become the property of the County.
 - c. It is understood that the RFQ, Qualifications Application and any and all supporting documents are open to public inspection under provisions of law.
6. The undersigned affirms all statements made in this application are true and complete to the best of his/her knowledge.
7. The undersigned, under penalty of perjury, is an agent authorized to submit this Qualifications Application on behalf of the agency/ organization.
8. The undersigned further states that he/she is authorized to negotiate with the County on behalf of the agency/organization.

(Authorized Signature)

(Print Name Here)

(Title)

(Organization Name, if applicable)

(Date)

Instructions for completing background information:

- ♦ Please answer all questions completely. If a question does not apply to you, please indicate Not Applicable (N/A)

1. How many years have the applicant or agency/organization been providing Shelter Services?

____ Years ____ Months

____ New Provider

2. Does the applicant or agency/organization have experience providing Shelter Services for individuals with:

Mental Illness ☐ Yes ☐ No

Substance Abuse ☐ Yes ☐ No

If checked "yes", see page 4.

3. Does the applicant or agency/organization have any experience providing Shelter Services to consumers referred by any of the County of San Bernardino's many departments?

☐ Yes ☐ No

If checked "yes", see page 4.

4. What are your areas of expertise?

5. Please list any memberships in professional associations, organizations or societies that are job-related.

6. Please indicate the region(s) that you propose to serve.

Representative Cities	Includes the following Zip Codes

7. Is the applicant or agency/organization currently involved in any litigation in connection with any other type of mental health or consumer-based services provided?

☐ Yes ☐ No

If checked "yes", see page 4.

8. Has the applicant or agency/ organization had a contract/agreement unwillfully terminated during the past two years?

☐ Yes ☐ No

If checked "yes", see page 4.

9. If the Qualifications Application is submitted under an agency/organization name, is the agency/organization currently delinquent in paying its State/Federal payroll taxes?

☐ Yes ☐ No

If checked "yes", see page 4.

10. Please attach any of the following policies currently available, to your RFQ application. (**Note:** You will be given a period of time to provide updated/current documents should your agency be selected to provide services.)

- ☐ Insurance Policy
- ☐ Workers Compensation Insurance Policy
- ☐ Live Scan Documentation
- ☐ Business License
- ☐ Fire Clearance

**SHELTER SERVICES
QUALIFICATIONS APPLICATION
RFQ DBH 10-07
BACKGROUND EXPLANATIONS**

Question #2

Experience working with individuals with mental illness and/or substance abuse consumers?

Question #3

Experience providing shelter services for County of San Bernardino departments? *(Please include department names and addresses)*

Question #7

Involved in current litigation in connection with any other type of shelter services?

Question #8

Has any contract been unwillfully terminated within the last two years?

Question #9

Explanation regarding delinquent State/Federal payroll Taxes.

**SHELTER SERVICES
QUALIFICATIONS APPLICATION
RFQ DBH 10-07**

Please provide a narrative of your plan for delivery of services; including the type of consumer you are proposing to serve.

**SHELTER SERVICES
QUALIFICATIONS APPLICATION
RFQ DBH 10-07
Personnel Qualifications**

Please list the names, qualifications and years of experience of all personnel who may be used to provide shelter services to the Department of Behavioral Health.

STATEMENTS OF EXPERIENCE

The following statements are incorporated as part of the application in response to the County of San Bernardino **DBH RFQ 10-07 Shelter Services**.

Statement		Agree (Initial)	Disagree (Initial and attach explanation)
1.	The proposers organization is <u>or</u> will be adequately staffed and trained to perform the required services <u>or</u> demonstrates the capability of recruiting such staff.		
2.	The proposer has no adverse court rulings involving fraud and/or related acts of all officers, consultants, and employees. (By initialing <u>Agree</u> you are stating that the above statement is true. If there are issues pertaining to the above statement, initial the <u>Disagree</u> box and attach a separate page with explanation.)		
3.	The proposer does not have any commitments or potential commitments which may impact on the Propser's assets, lines of credit, guarantor letters, or ability to perform the agreement.		
4.	List <u>current</u> and all <u>previous</u> business names and the <u>years</u> each were active. 1. 2. 3.		
5.	List any applicable <u>licenses</u> and/or <u>permits</u> you presently hold under the current business name. (Attach copies to your completed Qualifications packet) 1. 2. 3.		

Signature

Date_____

Print Name

Company/Agency

Address

BUSINESS ASSOCIATE AGREEMENT

Except as otherwise provided in this Agreement, **Name of Business Associate**, hereinafter referred to as BUSINESS ASSOCIATE, may use, access or disclose Protected Health Information to perform functions, activities or services for or on behalf of the COUNTY OF SAN BERNARDINO, hereinafter referred to as the COVERED ENTITY, as specified in this Agreement and the attached **CONTRACT**, provided such use, access or disclosure does not violate the Health Insurance Portability and Accountability Act (HIPAA), 42 United States Code (USC) 1320d et seq., and its implementing regulations, including but not limited to, 45 Code of Federal Regulations (CFR) Parts 160, 162, and 164, hereinafter referred to as the Privacy and Security Rules and patient confidentiality regulations, including but not limited to, California Civil Code 56 – 56.16, 56.20, 56.36, and Health and Safety Codes 1280.1, 1280.3, 1280.15, 130200 and the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (the "HITECH Act") and any regulations adopted or to be adopted pursuant to the HITECH Act that relate to the obligations of business associates. Business Associate recognizes and agrees it is obligated by law to meet the applicable provisions of the HITECH Act.

I. Definitions.

- a.** "Breach" means the acquisition, access, use or disclosure of Protected Health Information (PHI) in a manner not permitted under HIPAA (45 CFR Part 164, Subpart E), CA and/or Civil Code 56.36 which compromises the security or privacy of the Protected Health Information. For the purposes of HITECH, a breach shall not include:
 - 1.** Any unintentional acquisition, access or use of PHI by a workforce member or person acting under the authority of Covered Entity or the Business Associate, if such acquisition, access or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the HIPAA Privacy Rule; or
 - 2.** Any inadvertent disclosure by a person who is authorized to access PHI at Covered Entity or Business Associate to another person authorized to access Protected Health Information at Covered Entity or Business Associate, respectively, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule; or
 - 3.** A disclosure of PHI where Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.
- b.** "Business Associate" means with respect to a Covered Entity, a person who:
 - 1.** On behalf of such Covered Entity, but other than in the capacity of a member of the workforce of such Covered Entity performs or assists in the performance of :
 - (a) a function or activity involving the use or disclosure of Personally Identifiable Health Information, including claims processing or administration, data analysis, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or

- (b) any other function or activity regulated by the HIPAA Privacy or HIPAA Security Regulations; or
2. Provides, other than in the capacity of a member of the workforce of such Covered Entity, legal, actuarial, accounting, consulting, data Aggregation, management, administrative, accreditation or financial services to or for such Covered Entity where the provision of the service involves the disclosure of Personally Identifiable Health Information from such Covered Entity to the person.
- c. "Patient/Client" means Covered Entity funded person who is the patient or client of the Business Associate.
- d. "Covered Entity" means a health plan, a health care clearinghouse or a health care provider who transmits any health information in electronic form in connection with a transaction covered by HIPAA Privacy and Security Regulations.
- e. "Data Aggregation" means, with respect to PHI created or received by a Business Associate in its capacity as the Business Associate of a Covered Entity, the combining of such PHI by the Business Associate with the PHI received by the Business Associate in its capacity as a Business Associate of another Covered Entity, to permit data analyses that relate to the health care operations of the respective Covered Entities.
- f. "Discovered" means a breach shall be treated as discovered by Covered Entity or Business Associate as the first day on which such breach is known to such Covered Entity or Business Associate, respectively, (including any person, other than the individual committing the breach, that is an employee, officer or other agent of such entity or associate, respectively) or should reasonably have been known to such Covered Entity or Business Associate (or person) to have occurred.
- g. "Electronic Protected Health Information" or "Electronic PHI" means PHI that is transmitted by or maintained in electronic media as defined in the HIPAA Security Regulations.
- h. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- i. "HIPAA Privacy Rule" means the regulations promulgated under HIPAA by the United States Department of Health and Human Services to protect the privacy of Protected Health Information, including, but not limited to, 45 CFR Part 160 and 45 CFR Part 164, Subpart A and Subpart E.
- j. "HIPAA Security Rule" means the regulations promulgated under HIPAA by the United States Department of Health and Human Services to protect the security of Electronic Protected Health Information, including, but not limited to, 45 CFR Part 160 and 45 CFR Part 164, Subpart A and Subpart C.
- k. "HITECH Act" means the privacy, security and security Breach notification provisions applicable to Business Associate under Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH"), which is Title XIII of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and any regulations promulgated thereunder.
- l. "Personally Identifiable Health Information" means information that is a subset of health information, including demographic information collected from an individual, and;

1. is created or received by a health care provider, health plan, employer or health care clearinghouse; and
 2. relates to the past, present or future physical or mental health 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
 - (a) that identifies the individual; or
 - (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- m. "Protected Health Information" or "PHI" means Personally Identifiable Health Information transmitted or maintained in any form or medium that (i) is received by Business Associate from Covered Entity, (ii) Business Associate creates for its own purposes from Personally Identifiable Health Information that Business Associate received from Covered Entity, or (iii) is created, received, transmitted or maintained by Business Associate on behalf of Covered Entity. Protected Health Information excludes Personally Identifiable Health Information in education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. Section 1232(g), records described at 20 U.S.C. Section 1232g(a)(4)(B)(iv), and employment records held by the Covered Entity in its role as employer.
- n. "Secured PHI" means PHI that was rendered unusable, unreadable or indecipherable to unauthorized individuals through the use of technologies or methodologies specified under Section 13402 (h)(2) of the HITECH Act under ARRA.
- o. "Unsecured PHI" means PHI that is not secured through the use of a technology or methodology specified by the Secretary of the U.S. Department of Health and Human Services.
- p. Any terms capitalized, but not otherwise defined, in this Agreement shall have the same meaning as those terms have under HIPAA, the HIPAA Privacy Rule, the HIPAA Security Rule and the HITECH Act.
- I. Obligations and Activities of Business Associate.**
- a. **Permitted Uses.** Business Associate shall not use, access or further disclose Protected Health Information other than as permitted or required by this Agreement and as specified in the attached **CONTRACT** or as required by law. Further, Business Associate shall not use Protected Health Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act. Business Associate shall disclose to its employees, subcontractors, agents, or other third parties, and request from Covered Entity, only the minimum Protected Health Information necessary to perform or fulfill a specific function required or permitted hereunder.
 - b. **Prohibited Uses and Disclosures.** Business Associate shall not use or disclose Protected Health Information for fundraising or marketing purposes. Business Associate shall not disclose Protected Health Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the Protected Health Information solely relates; 42 U.S.C. Section 17935(a) and 45 C.F.R. section 164.522(a)(1)(i)(A). Business Associate shall not directly or indirectly receive remuneration in exchange for Protected Health Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2); however, this prohibition shall not affect payment by Covered Entity to Business Associate for services provided pursuant to this Agreement.

- c. Appropriate Safeguards.** Business Associate shall implement the following administrative, physical, and technical safeguards in accordance with the Security Rule under 45 C.F.R., Sections 164.308, 164.310, 164.312 and 164.316:
1. Implement policies and procedures to prevent, detect, contain and correct security violations; identify the security official who is responsible for the development and implementation of the policies and procedures required by this subpart for the entity; implement a security awareness and training program for all members of its workforce; implement P&Ps to prevent those workforce members who do not have access from obtaining access to electronic PHI; implement policy and procedures to address security incidents; establish policies and procedures for responding to an emergency or other occurrence that damages systems that contain electronic PHI; and perform a periodic technical and nontechnical evaluation in response to environmental or operational changes affecting the security of electronic PHI that establishes the extent to which an entity's security policies and procedures meet the requirements of this subpart.
 2. Implement policies and procedures to limit physical access to its electronic information systems and the facility or facilities in which they are housed, while ensuring that properly authorized access is allowed; implement policies and procedures that specify the proper functions to be performed, and the physical attributes of the surroundings of a specific workstation or class of workstations that can access electronic PHI; implement physical safeguards for all workstations that access electronic PHI; restrict access to authorized users; implement policies and procedures that govern the receipt and removal of hardware and electronic media that contain electronic PHI into and out of a facility and the movement of these items within the facility.
 3. Implement technical policies and procedures for electronic information systems that maintain electronic PHI to allow access only to those persons or software programs that have been granted access rights as specified in 45 C.F.R., Section 164.208; implement hardware, software and/or procedural mechanisms that record and examine activity in information systems that contain or use electronic PHI; implement policies and procedures to protect electronic PHI from improper alteration, destruction, unauthorized access or loss of integrity or availability.
- d. Mitigation.** Business Associate shall have procedures in place to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use, access or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- e. Reporting of Improper Access, Use or Disclosure or Breach.** Business Associate shall report to Covered Entity's Office of Compliance any unauthorized use, access or disclosure of unsecured Protected Health Information or any other security incident with respect to Protected Health Information no later than two (2) business days upon the discovery of potential breach. Additionally, effective February 17, 2010, the Business Associate shall report to the Covered Entity's Office of Compliance any breach consistent with the regulations promulgated under HITECH by the United States Department of Health and Human Services, 45 CFR Part 164, Subpart D, within two (2) business days of discovery of the potential breach. Upon discovery of the potential breach, the Business Associate shall complete the following actions:
- (1) Provide Covered Entity's Office of Compliance with the following information to include but not limited to:
 - (a) Date the potential breach occurred;
 - (b) Date the potential breach was discovered;

- (c) Number of staff, employees, subcontractors, agents or other third parties and the titles of each person allegedly involved;
 - (d) Number of potentially affected patients/clients; and
 - (e) Description of how the potential breach allegedly occurred.
 - (2)** Conduct and document a risk assessment by investigating without reasonable delay and in no case later than twenty (20) calendar days of discovery of the potential breach to determine the following:
 - (a) Whether there has been an impermissible use, acquisition, access or disclosure of PHI under the Privacy Rule;
 - (b) Whether an impermissible use or disclosure compromises the security or privacy of the PHI by posing a significant risk of financial, reputational or other harm to the patient/client; and
 - (c) Whether the incident falls under one of the breach exceptions.
 - (3)** Provide completed risk assessment and investigation documentation to Covered Entity's Office of Compliance within twenty-five (25) calendar days of discovery of the potential breach with decision whether a breach has occurred.:
 - (a) If a breach has not occurred, notification to patient/client(s) is not required.
 - (b) If a breach has occurred, notification to the patient/client(s) is required, and Business Associate must provide Covered Entity with affected patient/client names and contact information so the Covered Entity can provide notification.
 - (4)** Make available to Covered Entity and governing State and Federal agencies in a time and manner designated by Covered Entity or governing State and Federal agencies, any policies, procedures, internal practices and records relating to a potential breach for the purposes of audit or should the Covered Entity reserve the right to conduct its own investigation and analysis.
- f. Permitted Disclosures.** If Business Associate discloses Protected Health Information to a third party, including any agent or subcontractor, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from such third party that such Protected Health Information will 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 (ii) an agreement from such third party to immediately notify Business Associate of any breach of confidentiality of the Protected Health Information, to the extent it has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)].
- g. Access to Protected Health Information.** Business Associate shall provide access to Protected Health Information in a Designated Record Set to Covered Entity or to an Individual, at the request or direction of Covered Entity and in the time and manner designated by the Covered Entity, as required by of 45 CFR 164.524.
- h. Amendment of Protected Health Information.** If Business Associate maintains a Designated Record Set on behalf of the Covered Entity, Business Associate shall make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to, pursuant to 45 CFR 164.526, in the time and manner designated by the Covered Entity.
- i. Access to Records.** Business Associate shall make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use, access and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, and/or to the Secretary for the U.S. Department of Health and Human Services, in a time and manner designated by the

Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy and Security Rules and patient confidentiality regulations.

- j. Audit and Monitor.** Covered Entity reserves the right to audit and monitor all records, policies, procedures and other pertinent items related to the use, access and disclosure of Protected Health Information of the Business Associate as requested to ensure Business Associate is in compliance with this Agreement. Covered Entity has the right to monitor Business Associate in the delivery of services provided under this Agreement. Business Associate shall give full cooperation in any auditing or monitoring conducted.
- k. Accounting for Disclosures.** Business Associate shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information. Further, Business Associate shall provide to Covered Entity or an Individual, in the time and manner designated by the Covered Entity, information collected in accordance with provision (i), above, to permit Covered Entity to respond to a request by the Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528 and the HITECH Act.
- l. Destruction of Protected Health Information.** Upon termination of this Agreement, Business Associate shall return all Protected Health Information required to be retained and return or destroy all other Protected Health Information received from the Covered Entity, or created or received by the Business Associate or its subcontractors, employees or agents on behalf of the Covered Entity. In the event the Business Associate determines that returning the Protected Health Information is not feasible, the Business Associate shall provide the Covered Entity with written notification of the conditions that make return not feasible. Business Associate further agrees to extend any and all protections, limitations, and restrictions contained in this Agreement, to any Protected Health Information retained by Business Associate or its subcontractors, employees or agents after the termination of this Agreement, and to limit any further use, access or disclosures to the purposes that make the return or destruction of the Protected Health Information infeasible.
- m. Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the Business Associate knows of a pattern of activity or practice of the Covered Entity that constitutes a material breach or violation of the Covered Entity's obligations under this Agreement, 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 the Agreement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS.
- n. Costs Associated to Breach.** Business Associate shall be responsible for reasonable costs associated with a breach. Costs shall be based upon the required notification type as deemed appropriate and necessary by the Covered Entity and shall not be reimbursable under the contract at any time. Covered Entity shall determine the method to invoice the Business Associate for said costs. Costs shall incur at the current rates and may include, but are not limited to the following:

 - 1. Postage;
 - 2. Alternative means of notice;
 - 3. Media notification; and
 - 4. Credit monitoring services.

III. Specific Use and Disclosure Provisions.

- a. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- b. Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are required by law.
- c. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation service to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).
- d. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 42 CFR 164.502(j)(1).

IV. Obligations of Covered Entity.

- a. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use, access or disclosure of Protected Health Information.
- b. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an individual to use, access or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use, access or disclosure of Protected Health Information.
- c. Covered Entity shall notify Business Associate of any restriction to the use, access or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use, access or disclosure of Protected Health Information.
- d. Covered Entity shall complete the following in the event that the Covered Entity has determined that Business Associate has a breach:
 - 1. Determine appropriate method of notification to the patient/client(s) regarding a breach as outlined under Section 13402(e) of the HITECH Act;
 - 2. Send notification to the patient/client(s) without unreasonable delay but in no case later than sixty (60) days of discovery of the breach with at least the minimal required elements as follows:
 - a. Brief description of what happened, including the date of the breach and the date of discovery;
 - b. Description of the types of unsecured PHI involved in the breach (such as name, date of birth, home address, Social Security number, medical insurance, etc.);
 - c. Steps patient/client(s) should take to protect themselves from potential harm resulting from the breach;
 - d. Brief description of what is being done to investigate the breach, to mitigate harm to patient/client(s) and to protect against any further breaches; and
 - e. Contact procedures for patient/client(s) to ask questions or learn additional information, which must include a toll-free telephone number, an e-mail address, Web site or postal address.
 - 3. Determine if notice is required to Secretary of the U.S. Department of Health and Human Services.
 - 4. Submit breach information to the Secretary of the U.S. Department of Health and Human Services within the required timeframe, in accordance with 164.408(b).

V. General Provisions.

- a. **Remedies.** Business Associate agrees that Covered Entity shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies which Covered Entity may have at law or in equity in the event of an unauthorized use, access or disclosure of Protected Health Information by Business Associate or any agent or subcontractor of Business Associate that received Protected Health Information from Business Associate.
- b. **Ownership.** The Protected Health Information shall be and remain the property of the Covered Entity. Business Associate agrees that it acquires no title or rights to the Protected Health Information.
- c. **Regulatory References.** A reference in this Agreement to a section in the Privacy and Security Rules and patient confidentiality regulations means the section as in effect or as amended.
- d. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Rules and the Health Insurance Portability and Accountability Act and patient confidentiality regulations.
- e. **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy and Security Rules and patient confidentiality regulations.

The undersigned affirms that he/she is a duly authorized representative of the Business Associate for which he/she is signing and has the authority to execute this Agreement on behalf of the Business Associate.

Covered Entity
COUNTY OF SAN BERNARDINO

Business Associate
«Addressee»

Signature

Signature

Dated

Dated

Allan Rawland, MSW, ACSW

Name

Name

Director, Department of Behavioral Health

Title

Title

AMERICAN RECOVERY AND REINVESTMENT ACT FUNDING (ARRA)

Use of ARRA Funds and Requirements

This Contract may be funded in whole or in part with funds provided by the American Recovery and Reinvestment Act of 2009 ("ARRA"), signed into law on February 17, 2009. Section 1605 of ARRA prohibits the use of recovery funds for a project for the construction, alteration, maintenance or repair of a public building or public work (both as defined in 2 CFR 176.140) unless all of the iron, steel and manufactured goods (as defined in 2 CFR 176.140) used in the project are produced in the United States. A waiver is available under three limited circumstances: (i) Iron, steel or relevant manufactured goods are not produced in the United States in sufficient and reasonable quantities and of a satisfactory quality; (ii) Inclusion of iron, steel or manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent; or (iii) Applying the domestic preference would be inconsistent with the public interest. This is referred to as the "Buy American" requirement. Request for a waiver must be made to the County for an appropriate determination.

Section 1606 of ARRA requires that laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 31). This is referred to as the "wage rate" requirement.

The above described provisions constitute notice under ARRA of the Buy American and wage rate requirements. Contractor must contact the County contact if it has any questions regarding the applicability or implementation of the ARRA Buy American and wage rate requirements. Contractor will also be required to provide detailed information regarding compliance with the Buy American requirements, expenditure of funds and wages paid to employees so that the County may fulfill any reporting requirements it has under ARRA. The information may be required as frequently as monthly or quarterly. Contractor agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

Contractor may also be required to register in the Central Contractor Registration (CCR) database at <http://www.ccr.gov> and may be required to have its subcontractors also register in the same database. Contractor must contact the County with any questions regarding registration requirements.

Schedule of Expenditure of Federal Awards

In addition to the requirements described in "Use of ARRA Funds and Requirements," proper accounting and reporting of ARRA expenditures in single audits is required. Contractor agrees to separately identify the expenditures for each grant award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by the Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Nonprofit Organizations." This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal

award number consistent with the recipient reports required by ARRA Section 1512 (c). In addition, Contractor agrees to separately identify to each subcontractor and document at the time of subcontract and at the time of disbursement of funds, the Federal award number, any special CFDA number assigned for ARRA purposes, and amount of ARRA funds.

Contractor may be required to provide detailed information regarding expenditures so that the County may fulfill any reporting requirements under ARRA described in this section. The information may be required as frequently as monthly or quarterly. Contractor agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

ARRA – 8/12/09

San Bernardino County Mental Health Plan (MHP) Grievance Procedure

BENEFICIARY COMPLAINTS, APPEALS AND/OR GRIEVANCES

Title 9 of the California Code of Regulations requires that the Mental Health Plan (MHP) and its fee-for-service providers provide verbal and written information to Medi-Cal beneficiaries regarding the following:

- How to access specialty mental health services
- How to file a grievance about services
- How to file an appeal
- How to file for a State Fair Hearing

The MHP has developed a *Guide to Medi-Cal Mental Health Services*, a Grievance Process poster, a Grievance Form, an Appeal Form, and Request for Change of Provider Form. All of these beneficiary materials must be posted in prominent locations where Medi-Cal beneficiaries receive outpatient specialty mental health services, including the waiting rooms of providers' offices of service.

Please note that all fee-for-service providers and contract agencies are required to give their beneficiaries copies of all current beneficiary information at intake and annually at the time their treatment plans are updated.

Provided below is additional information about the grievance process.

GRIEVANCES BY BENEFICIARIES (Verbal and/or Written)

A grievance is an expression of dissatisfaction about any matter other than an action. Beneficiaries are encouraged to discuss issues and concerns regarding their mental health services directly with their provider(s). A grievance can be a verbal or a written statement of the beneficiary's concerns or problems. The beneficiary has the right to use the grievance process at any time.

Grievances, including those made by families, legal guardians, or conservators of beneficiaries, may be directed to the provider, the Access Unit and/or a completed Grievance Form may be sent to the DBH Access Unit or Patient's Rights Office. Grievance forms and pre-addressed envelopes to the Access Unit must be available at all providers' offices in locations where the beneficiary may obtain them without making a verbal request. If beneficiaries have questions regarding the grievance process, they may contact their providers, the Access Unit, or the Office of Patients' Rights. The Access Unit records the grievance in a log within one (1) working day of the date of the receipt of the grievance. The Access Unit sends an acknowledgement letter and resolution letter to the beneficiary as hereafter described. The Access Unit or MHP designee has sixty (60) calendar days to ensure a grievance is resolved. Fourteen (14) day extensions are allowed if the beneficiary requests or the MHP determines it is in the best interest of the beneficiary. Grievances are tracked by the Access Unit and sent to Quality Management after resolution.

APPEALS BY BENEFICIARIES (Verbal and/or Written)

Appeals may be filed when the beneficiary is dissatisfied after receipt of a Notice of Action, which:

1. **Denies or limits authorization of a requested service, including the type or level of service**
2. **Reduces, suspends, or terminates a previously authorized service**
3. **Denies, in whole or in part, payment for a service**
4. **Fails to provide services in a timely manner, as determined by the MHP**
5. **Fails to act within the timeframes for disposition of standard grievances, the resolution of standard appeals, or the resolution of expedited appeals, as hereafter described.**

San Bernardino County Mental Health Plan (MHP) Grievance Procedure

APPEAL PROCESS

1. A beneficiary may verbally appeal to the Access Unit or complete an Appeal Form, which is to be forwarded to the Access Unit. If verbal, it must be followed up in writing within forty-five (45) days. The Access Unit sends an acknowledgement letter when an appeal is received. The verbal appeal establishes the earliest filing date.
2. The Access Unit records the appeal in a log within one (1) working day of the date the appeal is received and sends an acknowledgment letter of receipt to the beneficiary. The Access Unit maintains and tracks the appeals.
3. A written decision is to be issued by the Access Unit within forty-five (45) calendar days from the date of receipt of the form, and mailed to the beneficiary. Fourteen (14) calendar day extensions are allowed if the beneficiary requests or the MHP thinks it is in the best interest of the beneficiary. The Access Unit sends an acknowledgement letter and resolution letter to the beneficiary.
4. Expedited Appeals can be requested if the time for the standard resolution could seriously jeopardize the beneficiary's life, health or ability to function. The parties will be notified of the MPH decision no later than three (3) working days after the MHP has received the appeal.

REQUEST FOR A STATE FAIR HEARING

In addition, beneficiaries who have received a Notice of Action (NOA) and have completed the grievance and appeals process may request a State Fair Hearing. The beneficiary has ninety (90) days in which to request the hearing. The beneficiary may also be eligible to continue receiving services pending the outcome of the hearing, if the request is made within ten (10) days of receipt of the (NOA).

The Access Unit tries to ensure problems are resolved before the State Fair Hearing, but if necessary writes a position paper which is sent to the Medi-Cal Field Office with a copy sent to the beneficiary two (2) days before the hearing.

The "Fair Hearing Tracking Log" is maintained by the Access Unit to monitor the progress and resolution of each request for a Fair Hearing.

The Access Unit is responsible for coordination with the State Department of Social Service, State Department of Mental Health, providers and Consumers regarding the Fair Hearing process. The Access Unit also oversees compliance with the decision of the hearing.

The Access Unit sends a MHP representative to the hearing with the Administrative Law Judge, and/or the beneficiary, and/or authorized representative.

Hearings are requested through calling or writing to:

State Hearing Division California Department of Social Services
PO Box 944243
Sacramento, CA 94244-2430

Telephone: (800) 952-5253
TDD: (800) 952- 8349

ADDITIONAL POINTS

At any time during the grievance, appeal, or State Fair Hearing processes, the beneficiary may authorize a person to act on his or her behalf, to use the grievance/ resolution process on his or her behalf, or to assist him or her with the process.

Filing a grievance will not restrict or compromise the beneficiary's access to mental health services.

San Bernardino County Mental Health Plan (MHP) Grievance Procedure

At any time during the grievance process, the beneficiary may contact the Access Unit at (888) 743-1478 or the Patient's Rights' Office at (800) 440-2391 for assistance.

GRIEVANCES REGARDING PROVIDERS AND SERVICES

Grievances by beneficiaries about providers or mental health services may be made to the Access Unit or to the Patients' Rights Office. Grievances will be reviewed and investigated by the appropriate office within the Department of Behavioral Health, and the issues contained therein will be reviewed by Quality Management. Providers cited by the beneficiary or otherwise involved in the grievance process will be notified of the final disposition of that grievance.

Concerns of the Department of Behavioral Health regarding a provider's possible unprofessional, unethical, incompetent, or breach-of-contract behavior will be investigated by the Patients' Rights Office or other department, by appropriate state licensing authorities, or by Quality Management. In extreme cases, in which beneficiary safety is at risk, the Director may suspend the provider's credentialed status while an investigation is pending.

Providers will prominently display and make available printed materials, which announce and explain the grievance, appeal and State Fair Hearing processes without the beneficiary having to make a verbal or written request for these materials. The Department of Behavioral Health has the *Guide to Medi-Cal Mental Health Services* and poster in the two (2) County threshold languages. ***Any grievance initiated with a provider by a beneficiary should be immediately forwarded from the provider to the Access Unit.***

PROVIDER PROBLEM RESOLUTION AND APPEAL PROCESS

GRIEVANCES (verbal)

Provider grievances regarding the system-of-care structure and procedures may be directed verbally to the Access Unit, who may be able to resolve or explain the issue.

When a provider grievance concerns a denied or modified request for payment authorization, or the processing or payment of a provider's claim, the provider has a right to access the Provider Appeal Process at any time before, during, or after the Provider Problem Resolution Process has begun.

APPEALS (written)

In response to a denied or modified request for payment authorization, or a dispute concerning the processing or payment of a claim, a provider may make use of the written Provider Appeal Process. The written appeal must be sent to the Access Unit Supervisor within ninety (90) calendar days of the date of receipt of the non-approval of payment or within ninety (90) calendar days of the MHP's failure to act on a request.

The Program Manager or designee will communicate a response to the provider within sixty (60) calendar days of receipt of the appeal. It will include a statement of the reasons for the decision that addresses each issue raised by the provider and any action required by the provider to implement the decision. If applicable, the provider shall submit a revised request for MHP payment authorization within thirty (30) calendar days from receipt of the MHP's decision to approve the payment authorization request.

If the Program Manager or designee does not respond to the appeal within sixty (60) calendar days of receiving it, the appeal shall be considered denied.

County of San Bernardino Department of Behavioral Health Local Preference Policy Form

Please check all that apply:

- | | | |
|----|---|--------------------------|
| 1. | Main or regional Office located within County boundaries..... | ☐ |
| 2. | Issued a business license, if required, and has been established and open for six months prior to release of solicitation..... | ☐ |
| 3. | Has a minimum of 25% full-time management employed and 25% of its full-time regular employed working from County locations..... | ☐ |
| 4. | The statements above do not apply to our agency..... | ☐ |

Signature
(Authorized Signer)

Date

Print Name

Company/Agency

Address
