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CHIEF EXECUTIVE OFFICE

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"To Enrich Lives Through Effective And Caring Service"


October 13, 2015

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

23 October 27, 2015

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012


PATRICK O'QUINN
ACTING EXECUTIVE OFFICER

Dear Supervisors:

APPROVAL TO EXECUTE A CONTRACT FOR WORKERS' COMPENSATION CLAIMS THIRD PARTY ADMINISTRATION SERVICES FOR UNIT 3 (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

SUBJECT

The Chief Executive Office (CEO) seeks the Board's approval for a contract with TRISTAR Risk Management (TRISTAR), to provide Workers' Compensation Claims Third Party Administration (TPA) Services for Unit 3, for the County of Los Angeles (County) Workers' Compensation Program.

IT IS RECOMMENDED THAT THE BOARD:

Find pursuant to County Code Section 2.121.420, that the claims administration services described herein are more economically and feasibly performed by a private firm rather than by County employees.

Approve and instruct the Mayor to sign the attached contract (Enclosure I) with TRISTAR for a three-year term, effective January 1, 2016 through December 31, 2018, with a provision to extend up to six months in any increment, at a total base contract cost of \$25,500,000.

Delegate authority to the Interim CEO, or her designee, to approve and execute amendments and change notices pursuant to the Contract provisions; and/or provide an increase or decrease in funding up to 10 percent above or below each term's annual base maximum obligation, effective upon amendment execution, subject to review and approval by County Counsel and notification to the Board.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The first recommendation establishes the governing authority for County contracting under County Code Section 2.201.020, and sets the framework by which these services were found to be both more economically and feasibly performed by an independent contractor.

Approval of the second recommendation will allow CEO to enter into a Contract with TRISTAR for the continuation of vital workers' compensation activities for Unit 3 as established in County Code Section 5.31.050, Workers' Compensation. The current contract for Unit 3 expires December 31, 2015. The County's Workers' Compensation Program is organized into four (4) units; each unit is comprised of designated departments and its respective claims. Four (4) TPA contractors currently administrate each unit. The proposed contract will provide Workers' Compensation Claims Management for Unit 3, which is comprised of the Board of Supervisors and 23 County departments, including central services such as Auditor-Controller, CEO, Chief Information Office, County Counsel, and Human Resources (Enclosure II).

Approval of the second recommendation will also enable CEO to amend the Contract to execute renewal options and allow for an increase or decrease in funding in respect to service delivery. While the County is under no obligation to pay the contractor beyond what is identified in the original executed agreement, the County may determine that the contractor has provided evidence of eligible costs for qualifying contracted services and that it is in the County's best interest to increase the maximum contract obligation and determine funds should be reallocated. This recommendation has no impact on net County cost.

Implementation of Strategic Plan Goals

The recommended actions support the County's Strategic Plan Goal One, Operational Effectiveness/Fiscal Sustainability, by providing vital risk management services to improve the effectiveness of Countywide risk management activities.

FISCAL IMPACT/FINANCING

The program cost for the Contract under the first recommendation is \$8,500,000 annually for following terms: January 1, 2016 through December 31, 2016; January 1, 2017 through December 31, 2017; and January 1, 2018 through December 31, 2018, respectively, for a total maximum obligation of \$25,500,000, which is 100 percent offset by the County's Workers' Compensation Employee Benefits Operating Budget. Funding for this contract is included in the Fiscal Year 2015-2016 Adopted Budget.

The contract for TRISTAR is subject to: (1) performance adjustments that may result in the adjustment of fees; and (2) the County has the opportunity to manage the flow of claims to maintain constant workload. With that said, under the current contract for Unit 3, the anticipated expenditures for calendar year 2015 will be \$7,714,222.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The County's self-insured Workers' Compensation Program is the largest of any local governmental entity in California, and is responsible for the administration of approximately 27,000 open workers' compensation claims. Statutorily mandated benefits are currently through partnerships with the four TPAs. The CEO Workers' Compensation On-Site County Representatives (OSCRs) provide on-site assistance to TPA staff, County departments, and injured workers. In addition, OSCRs authorize

high value payment transactions and act as liaisons between departments, defense counsel, and the TPAs. County Counsel staff and contracted defense attorneys provide legal support.

The contract with TRISTAR contains all required Board mandated provisions. The provision of services by TRISTAR is subject to Proposition A guidelines set forth in the Los Angeles County Fiscal Manual Section 12.2.0. This includes adherence to the Living Wage Program under the County Code Section 2.201. TRISTAR agreed to comply with those requirements.

County Counsel has approved the contract as to form, reviewed the Board letter for policy and legal compliance, and concurs with these recommendations.

CONTRACTING PROCESS

In November 2014, the CEO sent a Notice of Intent to Release a Request for Proposals (RFP) for Workers' Compensation Claims TPA Services for Unit 3 to a list of firms obtained from the Internal Services Department (ISD) website, previous solicitations, and the State of California Department of Industrial Relations TPA website. As a result of that effort, five (5) firms were interested in receiving the RFP when released.

On December 8, 2014, CEO released the RFP for Workers' Compensation Claims TPA Services for Unit 3. The RFP was posted on the ISD website and advertisements were placed in the Los Angeles Times, Los Angeles Sentinel, La Opinion, San Gabriel Valley Tribune, Press Telegram, and the Los Angeles Daily News. As a result, the RFP was sent to ten (10) firms who expressed interest in submitting a proposal.

On January 6, 2015, six (6) firms attended the Mandatory Proposers Conference. The ISD Countywide Contract Compliance Section was in attendance and presented at the conference due to the services being subject to the Living Wage Program.

Proposals were due on January 27, 2015. Four (4) firms submitted proposals: Intercare Holdings Insurance Services, Inc.; Sedgwick Claims Management Services, Inc.; TRISTAR; and York Risk Services Group.

RFP EVALUATION REVIEW PROCESS – OVERVIEW

As specified in the RFP document, the RFP Evaluation Review Process consisted of the following components:

Level 1A – Pass/Fail Qualifying Review

This part of the evaluation process was scored on a "Pass" or "Fail" basis as determined by the Proposer's response to each of the Proposer's Minimum Mandatory Requirements. The Pass/Fail Qualifying Review was conducted by personnel of the CEO's Risk Management Operations and Claims Management Division. Proposals given a score of "Fail" were deemed "unresponsive" and were disqualified from further evaluation. Proposals given a score of "Pass" were deemed "responsive" and proceeded to Level 1A External and Level 1B Internal Reviews. All proposals received by the submission due date passed this section of the review and were evaluated under both Level 1A External and Level 1B Internal Evaluation Reviews. CEO staff determined that all four (4) proposers met the minimum requirements.

Level 1A – External Evaluation Review – 700 Points

This part of the evaluation process was worth a total of 700 points. Proposals were reviewed and scored in the following areas: (1) Proposer’s Qualifications Section - 200 Points; (2) Proposer’s Approach to Provide Required Services Section – 300 Points; (3) Proposer’s Quality Control Plan Section - 100 Points; and (5) Living Wage Compliance Section - 100 Points. Proposal section (4) Acceptance/Exceptions of Terms and Conditions allowed for deductions. CEO staff determined that no points were deducted from all four (4) proposers.

This portion of the evaluation was reviewed and scored by high-level County staff consisting of four (4) evaluators, each from Unit 3 County departments (hereafter “external evaluators”) with education, training, and work experience in the subject matter. Proposals were evaluated by four (4) external evaluators from the following Unit 3 departments: Beaches and Harbors, CEO, Fire, and ISD. External evaluators scored proposals individually in accordance with County Contracting Guidelines. Each external evaluator was screened accordingly for any potential conflicts of interest prior to being accepted as an external evaluator. Each external evaluator was provided with an overview of the RFP process, its roles and responsibilities, evaluation scoring tools and instructions, and the evaluation methodology prior to reviewing and scoring any of the proposals. External evaluators conducted an independent review of the proposals and then participated in a group discussion. Proposer scores under this portion of the evaluation were developed using the Informed Averaging Methodology, pursuant to Board Policy 5.054, and as described in the Evaluation Methodology for Proposals Implementation Guidelines.

Level 1B – Internal Evaluation Review – 300 Points

This part of the evaluation process was worth a total of 300 points. Cost proposals were reviewed and scored accordingly. CEO staff (hereafter “internal evaluators”) evaluated certain sections of the proposals internally, including Proposer References, Proposer Pending Litigation, Proposer Exceptions to the Sample Contract, Proposer Financial Capability, Cost Proposal, and Proposer Labor Law/Payroll Violations.

In compliance with Proposition A contracting guidelines, the California Division of Labor Standards Enforcement (DLSE) was contacted to request records for Proposers Labor Law/Payroll Violations that may have not been reported in the proposals. TRISTAR had one (1) Labor Law/Payroll Violation that was reported to DLSE. CEO contacted the County’s Labor Law Assessment Team to review the violation and to make a recommendation of points to be deducted from the final proposal score. The Labor Law Assessment Team recommended that zero points be deducted due to the one (1) violation not resulting in a finding. CEO deducted points from TRISTAR’s final score due to the violation not being disclosed in the proposal. Despite this fact, TRISTAR’s proposal was rated highest in the overall scoring under an informed averaging methodology used to reach the final scores.

In compliance with Proposition A contracting guidelines, CEO requested the assistance of the Auditor-Controller (A-C) to review the cost effectiveness of contracting for these services. A-C reviewed and approved the Proposition A, Cost Analysis (Enclosure III), which shows a cost savings of \$869,403 annually (9.15%), and concurs that the contract is cost-effective.

CEO followed all provisions in accordance with Board Policy 5.055, Services Contract Solicitation Protest. All three (3) non-selected proposers were given the opportunity to complete the Proposed Contractor Selection Review process and to request a County Independent Review. Two (2) of the non-selected proposers requested a Proposed Contractor Selection Review, of which, CEO

responded to both in accordance with Board Policy 5.055. CEO issued a written decision to the proposers in response to their assertions.

Of the non-selected proposers who completed the Proposed Contractor Selection Review, the incumbent contractor requested a County Independent Review. CEO requested ISD to conduct the County Independent Review. The County Independent Review was provided to CEO with findings of the review. The results of the County Independent Review were sent to the incumbent contractor before the CEO placed the recommendation for contract award on the Board's agenda.

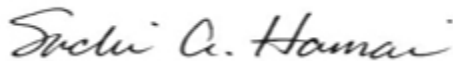
IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the contract will allow CEO to continue to provide workers' compensation claims administration services to County departments and ensure delivery of statutorily mandated benefits. Implementation of this Contract will not have any negative impact on services currently being provided by County employees.

CONCLUSION

Upon approval by the Board, please return two signed originals of the contract and one adopted copy of the letter to the CEO Risk Management Branch, attention Steven T. Robles, County Risk Manager.

Respectfully submitted,



SACHI A. HAMAI
Interim Chief Executive Officer

SAH:JJ
STR:RLC:KSJ:TD:
yy

Enclosures

c: Executive Officer, Board of Supervisors
Auditor-Controller
County Counsel



CONTRACT

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

TRISTAR RISK MANAGEMENT

FOR

**WORKERS' COMPENSATION CLAIMS
THIRD PARTY ADMINISTRATION SERVICES**

**CONTRACT PROVISIONS
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**CONTRACT BETWEEN
COUNTY OF LOS ANGELES
AND
TRISTAR RISK MANAGEMENT
FOR
WORKERS' COMPENSATION CLAIMS
THIRD PARTY ADMINISTRATION SERVICES**

This Contract and Exhibits made and entered into this 27th day of October, 2015 by and between the County of Los Angeles, hereinafter referred to as County and TRISTAR Risk Management, hereinafter referred to as "Contractor". Contractor is located at 100 Oceangate Boulevard, Long Beach, CA 90802.

RECITALS

WHEREAS, State of California Department of Industrial Relations through the Division of Workers' Compensation places upon County's Board of Supervisors (Board) the duty to preserve and protect the County's workforce; and

WHEREAS, County's Board of Supervisors appointed a County Risk Manager responsible for the management and control of risk in and throughout the County of Los Angeles, including its workforce; and

WHEREAS, County has established the Risk Management Branch under the administrative direction of the County's Chief Executive Office (hereafter "CEO"); and

WHEREAS, County's Risk Management Branch has established funds under the County's Workers' Compensation Employee Benefits Operating Budget which is authorized for its use by the Board; and

WHEREAS, pursuant to Los Angeles County Code Section 5.31.050, Workers' Compensation, the Director of Personnel shall establish, administer and operate, as part of the county-wide safety program, a complete self-insured workers' compensation system to ensure the full provision of benefits under the law to employees whose injuries arise out of and in the course of employment; and

WHEREAS, pursuant to Los Angeles County Code Section 2.121.250, et seq., the County may contract with private businesses for Workers' Compensation Claims Third Party Administration (TPA) Services when certain requirements are met; and

78425

WHEREAS, the Contractor is a private firm specializing in providing Workers' Compensation Claims TPA Services; and

WHEREAS, Contractor is familiar with the CEO Risk Management Branch's programs and services incorporated herein by this reference, and its intent to improve the quality, availability, coordination, efficiency and organization supportive services for the County's workforce and its families; and

WHEREAS, it is established by virtue of the CEO Risk Management Branch's program and services that workforce and employees are used interchangeably throughout this Contract.

WHEREAS, Contractor possesses the competence, expertise, facilities, and personnel to provide the services contemplated hereunder; and

Prop A authorization:

WHEREAS, the County has determined that it is legal, feasible, and cost-effective to contract Workers' Compensation Claims TPA Services; and

WHEREAS, it is the intent of the parties hereto to enter into Contract to provide Workers' Compensation services for the allocation, as set forth herein; and

WHEREAS, this Contract is therefore authorized under Section 44.7 of the Los Angeles County Charter and Los Angeles County Codes Section 2.121.250; and

WHEREAS, County is authorized by Government Code Section 31000 to contract for these services.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties hereto agree as following:

1.0 APPLICABLE DOCUMENTS

Exhibits A, B, C, D, E, F, G, H, I, J, K, L, M and N are attached to and form a part of this Contract. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, goods, service, or other work, or otherwise between the base Contract and the Exhibits, or between Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Contract and then to the Exhibits according to the following priority.

Standard Exhibits:

1.1 EXHIBIT A - Statement of Work

- 1.2 EXHIBIT B – Pricing Schedule
- 1.3 EXHIBIT C – Intentionally Omitted
- 1.4 EXHIBIT D - Contractor’s EEO Certification
- 1.5 EXHIBIT E - County’s Administration
- 1.6 EXHIBIT F - Contractor’s Administration
- 1.7 EXHIBIT G - Forms Required at the Time of Contract Execution
- 1.8 EXHIBIT H - Jury Service Ordinance
- 1.9 EXHIBIT I - Safely Surrendered Baby Law

Unique Exhibits:

Prop A - Living Wage Program

- 1.10 EXHIBIT J - Living Wage Ordinance
- 1.11 EXHIBIT K - Monthly Certification for Applicable Health Benefit Payments
- 1.12 EXHIBIT L - Payroll Statement of Compliance
- 1.13 EXHIBIT M – Intentionally Omitted

Health Insurance Portability And Accountability Act (HIPAA) Agreement

- 1.13 EXHIBIT N - Business Associate Agreement Under The Health Insurance Portability And Accountability Act Of 1996 (HIPAA)

2.0 DEFINITIONS

2.1 Acceptable Quality Level (AQL)

A measure expressing the maximum allowable leeway or variance from a performance standard before the County will reject a specified service. An AQL does not imply that the Contractor may knowingly perform in a defective way. It implies that the County recognizes the fact of unintentional human error. If defective performance exceeds

the minimum standards as described in the Quality of Work Performance Requirements Summary, a Contract Discrepancy Report (CDR) shall be issued. Additionally, wherever possible, the Contractor must perform all work to correct the identified defects(s).

2.2 Allocated Expenditures

The term “Allocated Expenditures” or “Allocated Loss Expense” shall mean Workers’ Compensation Appeals Board or court costs; fees for service of process; fees to attorneys and paralegals; the cost of investigators; the cost of employing independent experts; the cost for record copying services; the cost of depositions and court reporter fees; and any similar cost or expenses properly chargeable to the defense of a particular claim or to protect the subrogation rights of the County. Generally, the above services are typically not performed by the Contractor responsible for administration of the claim file. “Allocated Loss Expense” is not included in the fee paid to the Contractor.

2.3 Base Fee

The Base Fee is the annual flat fee for provision of all services. The Base Fee is subject to increase or decrease in accordance with Paragraph 13.0 of this Statement of Work.

2.4 Chief Executive Office (Department)

The Chief Executive Office of the County of Los Angeles.

2.5 Chief Executive Officer (CEO)

The Chief Executive Officer of the County of Los Angeles.

2.6 Contract Start Date

The term of this Contract shall commence on the date first herein above written and shall continue in full force and effect until December 31, 2018. Contractor’s performance of services hereunder shall commence at a date mutually agreeable to the parties but in no event shall the implementation date be later than January 1, 2016.

2.7 Contractor’s Quality Control Plan

This term shall mean all measures taken by Contractor to assure that the services described in Exhibit A (Statement of Work), are provided at the highest possible level of quality.

2.8 County

The County is the governmental entity, the County of Los Angeles.

2.9 County Contract Administrator (CCA)

The CCA is the designated agent of the County for the purposes of administering the County's self-insured workers' compensation (WC) program. The CCA is the WC Manager, CEO Risk Management Branch, or his/her designee.

2.10 County Risk Manager

The County Risk Manager manages the comprehensive County-wide risk management, risk transfer, risk financing and Risk Management Information System design and management.

2.11 County Counsel

The governmental office of Los Angeles County providing legal counsel and related services to County officers and departments.

2.12 County's WC Claim Administration and Information System (CIS)

The County installed workers' compensation claims administration system. The current system, GENCOMP for Windows, is licensed to the County by P&C Insurance Systems, Inc. and provides functional workers' compensation claims administration and information modules. The County Auditor-Controller issues all warrants pursuant to payment authorizations transmitted by the Chief Executive Office.

Should County change its workers' compensation claims administration system during the term of this Contract, Contractor shall expeditiously and completely convert to the County's new system, at a time of County's choosing, at sole expense to Contractor.

At the sole discretion of the County, Contractor shall provide, utilize, and be responsible for a fully functional workers' compensation claims administration system. The system shall have the capability of generating useful management reports and interfacing with the County's data aggregate risk management system. Contractor shall be responsible for the conversion to and from their workers' compensation claims administration system.

Conversion includes project management, data mapping and referencing, and training

2.13 Contractor Project Manager

The Contractor Project Manager (CPM) is the designated officer or employee responsible for all actions needed to administer the contract.

2.14 Indemnity or Disability Case

A claim involving one or more of the following: potential temporary disability due, ratable permanent disability anticipated, death of the claimant, application for adjudication of claim filed, liability undetermined, total medical costs over \$5,000.00, benefits due more than six months after opening of the case, and designation by the Claims Examiner. A disability case may be resolved with "Future Medical" provision continuing to require examiner/adjuster assignment.

2.15 Medical Only Case

A non-litigated claim involving total medical costs equal to or less than \$5,000.00 and with no benefits due more than six months after opening of the case.

2.16 Non-Included Services

Services outside of the agreed TPA fixed fee. For example, County Counsel is implementing an electronic filing and data storage system to be compatible with the WCAB EAMS program and examiner/adjuster mail boxes. The Contractor will be expected to assist with implementation to the extent possible, or propose additional costs during the term of the contract.

2.17 Performance Indicators

Characteristics used to measure and evaluate work. The annual audit measures TPA performance on each of the indicators.

2.18 Quality of Work Performance Requirements Summary (QWPRS)

The document which summarizes the key performance indicators.

2.19 Onsite County Representative (OSCR)

The OSCR is a County employee designated as an agent for the County responsible for approving over limit payments, advising and training third party administrator staff in County payroll systems and other County procedures, facilitating communication between Contractor and County Departments, and participating in development of return to work and settlement strategy. At times this employee may be referred to as "County Monitor."

2.20 County Quality Assurance Monitoring Plan (QAMP)

The County may use a variety of methods to evaluate the Contractor's compliance with the Agreement Standard Terms and Conditions. The methods that may be used are identified, but are not limited to those included in the PRS, Technical Exhibit 4.

The County assigns responsibility for Quality Assurance Monitoring Plan activities to the Quality Assurance Examiner (QAE). The QAE may be a County employee or independent auditor for periodic audits or an independent auditor for fee impact audits.

2.21 Contractor's Quality Control Plan

This term shall mean all measures taken by the Contractor to assure that the quality of an end-product or service will meet the County's contract requirements regarding timeliness, accuracy, appearance, completeness, consistency, and conformity to the requirements set forth in the QWPRS, Technical Exhibit 5.

2.22 Random Sample

A sampling method where each service output has an equal chance of being selected.

2.23 Risk Management Branch

The organizational unit of the County's Chief Executive Office responsible for administration of the County's self-insured program for workers' compensation.

2.24 Take-Over Claim

An open claim or a closed claim subsequently re-opened for adjusting services.

2.25 Take-Over (Assumption) Fee

A one-time fee paid during the first contract year that covers all costs for the assumption of all take-over claims. All takeover (assumption) costs and costs of administering all take-over claims must be included and amortized in this fee.

2.26 Three Point Contact

Contacts the Contractor's examiner makes to the injured employee or his legal representative, the appropriate County department personnel, and the Primary Treating Physician (PTP).

2.27 User Complaint Report

The report submitted by an individual or group of individuals to record discrepancies or problems with the Contractor's performance. The Contractor may be required to respond to a User Complaint Report (UCR) and/or it may be part of a CDR.

2.28 Workday

Throughout the Statement of Work, whenever "workday" appears, it means a normal workday, Monday through Friday, 8:00 a.m. through 5:00 p.m., except County holidays.

3.0 WORK

- 3.1 Pursuant to the provisions of this Contract, the Contractor shall fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth in herein.
- 3.2 If the Contractor provides any tasks, deliverables, goods, services, or other work, other than as specified in this Contract, the same shall be deemed to be a gratuitous effort on the part of the Contractor, and the Contractor shall have no claim whatsoever against the County.
- 3.3 County shall have sole discretion to reassign any or all work under this Contract to another contracted vendor(s) if County deems it to be in its best interest.

4.0 TERM OF CONTRACT

- 4.1 The term of this Contract shall be three (3) years with a six-month extension as described in 4.2. The Contract shall commence after execution by County's Board of Supervisors, unless sooner terminated or extended, in whole or in part, as provided in this Contract.
- 4.2 The County shall have the sole option to extend this Contract term for up to six months in any increment, for a maximum total Contract term of three years and six months. The extension shall be exercised at the sole discretion of the CEO or his/her designee as authorized to act on behalf of the County in agreeing to such extensions.
- 4.3 The County maintains databases that track/monitor contractor performance history. Information entered into such databases may be used for a variety of purposes, including determining whether the County will exercise a contract term extension option.
- 4.4 The Contractor shall notify the Department when this Contract is within six (6) months from the expiration of the term as provided for hereinabove. Upon occurrence of this event, the Contractor shall send written notification to the Department at the address herein provided in Exhibit E (County's Administration).

5.0 CONTRACT SUM

- 5.1 Contractor shall be paid as set forth in Exhibit B (Pricing Schedule).
- 5.2 The Contractor shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein. Assumption or takeover of any of the Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall occur only with the County's express prior written approval.

5.3 The Contractor shall maintain a system of record keeping that will allow the Contractor to determine when it has incurred seventy-five percent (75%) of the total contract authorization under this Contract. Upon occurrence of this event, the Contractor shall send written notification to the Chief Executive Office the address herein provided in Exhibit E - County's Administration.

5.4 **No Payment for Services Provided Following Expiration/Termination of Contract**

The Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by the Contractor after the expiration or other termination of this Contract. Should the Contractor receive any such payment it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/termination of this Contract shall not constitute a waiver of County's right to recover such payment from the Contractor. This provision shall survive the expiration or other termination of this Contract.

5.5 **Invoices and Payments**

5.5.1 The Contractor shall invoice the County only for providing the tasks, deliverables, goods, services, and other work specified in Exhibit A (Statement of Work) and elsewhere hereunder. The Contractor shall prepare invoices, which shall include the charges owed to the Contractor by the County under the terms of this Contract. The Contractor's payments shall be as provided in Exhibit B (Pricing Schedule), and the Contractor shall be paid only for the tasks, deliverables, goods, services, and other work approved in writing by the County. If the County does not approve work in writing no payment shall be due to the Contractor for that work.

5.5.2 The Contractor's invoices shall be priced in accordance with Exhibit B (Pricing Schedule).

5.5.3 The Contractor's invoices shall contain the information set forth in Exhibit A (Statement of Work) describing the tasks,

deliverables, goods, services, work hours, and facility and/or other work for which payment is claimed.

5.5.4 The Contractor shall submit the monthly invoices to the County by the 15th calendar day of the month following the month of service.

5.5.5 **Prop A - Living Wage Program:**

No invoice will be approved for payment unless the following is included:

- **Exhibit K - Monthly Certification for Applicable Health Benefit Payments**
- **Exhibit L - Payroll Statement of Compliance**

5.5.6 All invoices under this Contract shall be submitted in two (2) copies to the following address:

County of Los Angeles Chief Executive Office
Risk Management Branch, Workers' Compensation Program
3333 Wilshire Boulevard, Suite 820
Los Angeles, CA 90010
Attention: County Contract Administrator: Alex Rossi,
Manager, CEO

5.5.7 **County Approval of Invoices**

All invoices submitted by the Contractor for payment must have the written approval of the County Contract Administrator prior to any payment thereof. In no event shall the County be liable or responsible for any payment prior to such written approval. Approval for payment will not be unreasonably withheld.

5.5.8 **Local Small Business Enterprises – Prompt Payment Program**

Certified Local SBEs will receive prompt payment for services they provide to County departments. Prompt payment is defined as fifteen (15) calendar days after receipt of an undisputed invoice.

5.6 **Intentionally Omitted**

6.0 **ADMINISTRATION OF CONTRACT - COUNTY**

A listing of all County Administration referenced in the following subparagraphs are designated in Exhibit E - County's Administration. The County shall notify the Contractor in writing of any change in the names or addresses shown.

6.1 **County Risk Manager**

Responsibilities of the County Risk Manager include:

- Ensuring that the objectives of this Contract are met; and
- Providing direction to the Contractor in the areas relating to County policy, information requirements, and procedural requirements.

6.2 **County Contract Administrator (CCA)**

The responsibilities of the CCA include:

- Meeting with the Contractor's Project Manager on a regular basis; and
- Inspecting any and all tasks, deliverables, goods, services, or other work provided by or on behalf of the Contractor.

The CCA is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate County in any respect whatsoever.

6.3 **On-Site County Representative**

The On-Site County Representatives (OSCR) is responsible for overseeing the day-to-day administration of this Contract. The OSCR reports to the CCA.

7.0 ADMINISTRATION OF CONTRACT - CONTRACTOR

A listing of all of Contractor's Administration referenced in the following subparagraphs are designated in Exhibit F - Contractor's Administration. The Contractor will notify the County in writing of any change in the names or addresses shown.

7.1 Contractor's Project Manager

- 7.1.1 The Contractor's Project Manager is designated in Exhibit F (Contractor's Administration). The Contractor shall notify the County in writing of any change in the name or address of the Contractor's Project Manager.
- 7.1.2 The Contractor's Project Manager shall be responsible for the Contractor's day-to-day activities as related to this Contract and shall coordinate with the CCA and County Contract Monitor on a regular basis.
- 7.1.3 The Contractor's Project Manager must have three (3) years of experience.

7.2 Approval of Contractor's Staff

County has the absolute right to approve or disapprove all of the Contractor's staff performing work hereunder and any proposed changes in the Contractor's staff, including, but not limited to, the Contractor's Project Manager.

7.3 Contractor's Staff Identification

Contractor shall provide, at Contractor's expense, all staff providing services under this Contract with a photo identification badge.

7.4 Background and Security Investigations

- 7.4.1 Each of Contractor's staff performing services under this Contract who is in a designated sensitive position, as determined by County in County's sole discretion, shall undergo and pass a background investigation to the satisfaction of County as a condition of beginning and continuing to perform services under this Contract. Such

background investigation may include, but shall not be limited to, criminal conviction information obtained through fingerprints submitted to the California Department of Justice. The fees associated with the background investigation shall be at the expense of the Contractor, regardless if the member of Contractor's staff passes or fails the background investigation.

7.4.2 If a member of Contractor's staff does not pass the background investigation, County may request that the member of Contractor's staff be immediately removed from performing services under the Contract at any time during the term of the Contract. County will not provide to Contractor or to Contractor's staff any information obtained through the County's background investigation.

7.4.3 County, in its sole discretion, may immediately deny or terminate facility access to any member of Contractor's staff that does not pass such investigation to the satisfaction of the County or whose background or conduct is incompatible with County facility access.

7.4.4 Disqualification of any member of Contractor's staff pursuant to this Subparagraph 7.4 shall not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

7.5 Confidentiality

7.5.1 Contractor shall maintain the confidentiality of all records and information in accordance with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures relating to confidentiality, including, without limitation, County policies concerning information technology security and the protection of confidential records and information.

7.5.2 Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, without limitation,

defense costs and legal, accounting and other expert, consulting, or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with this Subparagraph 7.5, as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Subparagraph 7.5 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of County without County's prior written approval.

- 7.5.3 Contractor shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality provisions of this Contract.
- 7.5.4 Contractor shall cause each employee performing services covered by this Contract to sign and adhere to the provisions of the "Contractor Employee Acknowledgment and Confidentiality Agreement", Exhibit G1.
- 7.5.5 Contractor shall cause each non-employee performing services covered by this Contract to sign and adhere to the provisions of the "Contractor Non-Employee Acknowledgment and Confidentiality Agreement", Exhibit G2.

8.0 STANDARD TERMS AND CONDITIONS

8.1 Amendments and Change Notices

- 8.1.1 The County reserves the right to initiate Change Notices that do not affect the scope of work, term, Contract Sum or payments. All such changes shall be accomplished with an executed Change Notice signed by Contractor and County Contract Administrator.
- 8.1.2 For any change which affects the scope of work, term, Contract Sum, payments, or any term or condition included under this Contract, an Amendment shall be prepared and executed by the Contractor and by the Board of Supervisors, unless otherwise delegated to the Department.
- 8.1.3 The County's Board of Supervisors or Chief Executive Officer or designee may require the addition and/or change of certain terms and conditions in the Contract during the term of this Contract. The County reserves the right to add and/or change such provisions as required by the County's Board of Supervisors or Chief Executive Officer. To implement such changes, an Amendment to the Contract shall be prepared and executed by the Contractor and by the County's Board of Supervisors or designee.

8.2 Assignment and Delegation

- 8.2.1 The Contractor shall not assign its rights or delegate its duties under this Contract, or both, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this Subparagraph, County consent shall require a written amendment to the Contract, which is formally approved and executed by the parties. Any payments by the County to any approved delegate or assignee on any claim under this Contract shall be deductible, at County's sole discretion, against the claims, which the Contractor may have against the County.

- 8.2.2 Shareholders, partners, members, or other equity holders of

Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Contract, such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this Contract.

8.2.3 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, shall be a material breach of the Contract which may result in the termination of this Contract. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

8.3 Authorization Warranty

The Contractor represents and warrants that the person executing this Contract for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition, and obligation of this Contract and that all requirements of the Contractor have been fulfilled to provide such actual authority.

8.4 Budget Reductions

In the event that the County's Board of Supervisors adopts, in any fiscal year, a County Budget which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to County Contracts, the County reserves the right to reduce its payment obligation under this Contract correspondingly for that fiscal year and any subsequent fiscal year during the term of this Contract (including any extensions), and the services to be provided by the Contractor

under this Contract shall also be reduced correspondingly. The County's notice to the Contractor regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions. Except as set forth in the preceding sentence, the Contractor shall continue to provide all of the services set forth in this Contract.

8.5 Complaints

The Contractor shall develop, maintain and operate procedures for receiving, investigating and responding to complaints.

- 8.5.1 Within thirty (30) business days after Contract effective date, the Contractor shall provide the County with the Contractor's policy for receiving, investigating and responding to user complaints.
- 8.5.2 The County will review the Contractor's policy and provide the Contractor with approval of said plan or with requested changes.
- 8.5.3 If the County requests changes in the Contractor's policy, the Contractor shall make such changes and resubmit the plan within five (5) business days for County approval.
- 8.5.4 If, at any time, the Contractor wishes to change the Contractor's policy, the Contractor shall submit proposed changes to the County for approval before implementation.
- 8.5.5 The Contractor shall preliminarily investigate all complaints and notify the County Contract Administrator of the status of the investigation within five (5) business days of receiving the complaint.
- 8.5.6 When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.
- 8.5.7 Copies of all written responses shall be sent to the County Contract Administrator within three (3) business days of mailing to the complainant.

8.6 Compliance with Applicable Law

- 8.6.1 In the performance of this Contract, Contractor shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures, and all provisions required thereby to be included in this Contract are hereby incorporated herein by reference.
- 8.6.2 Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with any such laws, rules, regulations, ordinances, directives, guidelines, policies, or procedures, as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Subparagraph 8.6 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

8.7 Compliance with Civil Rights Laws

The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections

2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract. The Contractor shall comply with Exhibit D (Contractor's EEO Certification).

8.8 Compliance with County's Jury Service Program

8.8.1 Jury Service Program:

This Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code, a copy of which is attached as Exhibit H and incorporated by reference into and made a part of this Contract.

8.8.2 Written Employee Jury Service Policy.

1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that the Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), the Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.
2. For purposes of this Subparagraph, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County Contractor and has received or will receive an

aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full-time employee of the Contractor. "Full-time" means forty (40) hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of ninety (90) days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If the Contractor uses any Subcontractor to perform services for the County under the Contract, the Subcontractor shall also be subject to the provisions of this Subparagraph. The provisions of this Subparagraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

3. If the Contractor is not required to comply with the Jury Service Program when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and the Contractor shall immediately notify the County if the Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if the Contractor no longer qualifies for an exception to the Jury Service Program. In either event, the Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that the Contractor demonstrate, to the County's satisfaction that the Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that the Contractor continues to qualify for an exception to the Program.

4. Contractor's violation of this Subparagraph of the Contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract and/or bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

8.9 Conflict of Interest

- 8.9.1 No County employee whose position with the County enables such employee to influence the award of this Contract or any competing Contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Contractor or have any other direct or indirect financial interest in this Contract. No officer or employee of the Contractor who may financially benefit from the performance of work hereunder shall in any way participate in the County's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the County's approval or ongoing evaluation of such work.
- 8.9.2 The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this sub-paragraph shall be a material breach of this Contract.

8.10 Consideration of Hiring County Employees Targeted for Layoff/or Re-Employment List

Should the Contractor require additional or replacement personnel after the effective date of this Contract to perform the services set

forth herein, the Contractor shall give first consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of this Contract.

8.11 Consideration of Hiring GAIN/GROW Participants

8.11.1 Should the Contractor require additional or replacement personnel after the effective date of this Contract, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Contractor. Contractors shall report all job openings with job requirements to: GAINGROW@dpss.lacounty.gov to obtain a list of qualified GAIN/GROW job candidates.

8.11.2 In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

8.12 Contractor Responsibility and Debarment

8.12.1 Responsible Contractor

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the County's policy to conduct business only with responsible Contractors.

8.12.2 Chapter 2.202 of the County Code

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires

information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Contract, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which generally will not exceed five (5) years but may exceed five (5) years or be permanent if warranted by the circumstances, and terminate any or all existing Contracts the Contractor may have with the County.

8.12.3 Non-responsible Contractor

The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated a term of a contract with the County or a nonprofit corporation created by the County, (2) committed an act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

8.12.4 Contractor Hearing Board

1. If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
2. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit

evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.

3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
4. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.
5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of

the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

6. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

8.12.5 Subcontractors of Contractor

These terms shall also apply to Subcontractors of County Contractors.

8.13 Contractor's Acknowledgment of County's Commitment to the Safely Surrendered Baby Law

The Contractor acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used. Information on how to receive the poster can be found on the Internet at www.babysafela.org.

8.14 Contractor’s Warranty of Adherence to County’s Child Support Compliance Program

8.14.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through Contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

8.14.2 As required by the County’s Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor’s duty under this Contract to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of this Contract maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

8.15 County’s Quality Assurance Plan

The County or its agent will evaluate the Contractor’s performance under this Contract on not less than an annual basis. Such evaluation will include assessing the Contractor’s compliance with all Contract terms and conditions and performance standards. Contractor deficiencies which the County determines are severe or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board of Supervisors.

The report will include improvement/corrective action measures taken by the County and the Contractor. If improvement does not occur consistent with the corrective action measures, the County may terminate this Contract or impose other penalties as specified in this Contract.

8.16 Damage to County Facilities, Buildings or Grounds

- 8.16.1 The Contractor shall repair, or cause to be repaired, at its own cost, any and all damage to County facilities, buildings, or grounds caused by the Contractor or employees or agents of the Contractor. Such repairs shall be made immediately after the Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.
- 8.16.2 If the Contractor fails to make timely repairs, County may make any necessary repairs. All costs incurred by County, as determined by County, for such repairs shall be repaid by the Contractor by cash payment upon demand.

8.17 Employment Eligibility Verification

- 8.17.1 The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by law.
- 8.17.2 The Contractor shall indemnify, defend, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

8.18 Facsimile Representations

The County and the Contractor hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Amendments prepared pursuant to Subparagraph 8.1, and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Amendments to this Contract, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of "original" versions of such documents.

8.19 Fair Labor Standards

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the County and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by the Contractor's employees for which the County may be found jointly or solely liable.

8.20 Force Majeure

8.20.1 Neither party shall be liable for such party's failure to perform its obligations under and in accordance with this Contract, if such failure arises out of fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by such party or any of such party's subcontractors), freight embargoes, or other similar events to those described above, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of such party (such events are referred to in this Subparagraph as "force majeure events").

8.20.2 Notwithstanding the foregoing, a default by a subcontractor of Contractor shall not constitute a force majeure event,

unless such default arises out of causes beyond the control of both Contractor and such subcontractor, and without any fault or negligence of either of them. In such case, Contractor shall not be liable for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule. As used in this Subparagraph, the term “subcontractor” and “subcontractors” mean subcontractors at any tier.

8.20.3 In the event Contractor's failure to perform arises out of a force majeure event, Contractor agrees to use commercially reasonable best efforts to obtain goods or services from other sources, if applicable, and to otherwise mitigate the damages and reduce the delay caused by such force majeure event.

8.21 Governing Law, Jurisdiction, and Venue

This Contract shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

8.22 Independent Contractor Status

8.22.1 This Contract is by and between the County and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the County and the Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

8.22.2 The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Contract all compensation and benefits. The County shall have no liability or responsibility for the

payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Contractor.

8.22.3 The Contractor understands and agrees that all persons performing work pursuant to this Contract are, for purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the County. The Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to this Contract.

8.22.4 The Contractor shall adhere to the provisions stated in Subparagraph 7.5 (Confidentiality).

8.23 Indemnification

The Contractor shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, agents and volunteers ("County Indemnitees") from and against any and all liability, including but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from and/or relating to this Contract, except for such loss or damage arising from the sole negligence or willful misconduct of the County Indemnitees.

8.24 General Provisions for All Insurance Coverage

Without limiting Contractor's indemnification of County, and in the performance of this Contract and until all of its obligations pursuant to this Contract have been met, Contractor shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in Subparagraphs 8.24 and 8.25 of this Contract. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon Contractor pursuant to this Contract. The County in no way warrants that the Required Insurance is sufficient to protect the

Contractor for liabilities which may arise from or relate to this Contract.

8.24.1 Evidence of Coverage and Notice to County

- Certificate(s) of insurance coverage (Certificate) satisfactory to County, and a copy of an Additional Insured endorsement confirming County and its Agents (defined below) has been given Insured status under the Contractor's General Liability policy, shall be delivered to County at the address shown below and provided prior to commencing services under this Contract.
- Renewal Certificates shall be provided to County not less than ten (10) days prior to Contractor's policy expiration dates. The County reserves the right to obtain complete, certified copies of any required Contractor and/or Subcontractor insurance policies at any time.
- Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this Contract by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of the Contractor identified as the contracting party in this Contract. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand (\$50,000.00) dollars, and list any County required endorsement forms.
- Neither the County's failure to obtain, nor the County's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other insurance documentation or information provided by the Contractor, its insurance broker(s) and/or insurer(s),

shall be construed as a waiver of any of the Required Insurance provisions.

Certificates and copies of any required endorsements shall be sent to:

**County of Los Angeles, Chief Executive Office
Risk Management Operations
3333 Wilshire Boulevard, Suite 820
Los Angeles, CA 90010
Attention: Contracts Administration and Insurance
Compliance Section**

Contractor also shall promptly report to County any injury or property damage accident or incident, including any injury to a Contractor employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County property, monies or securities entrusted to Contractor. Contractor also shall promptly notify County of any third party claim or suit filed against Contractor or any of its Subcontractors which arises from or relates to this Contract, and could result in the filing of a claim or lawsuit against Contractor and/or County.

8.24.2 Additional Insured Status and Scope of Coverage

The County of Los Angeles, its Special Districts, Elected Officials, Officers, Agents, Employees and Volunteers (collectively County and its Agents) shall be provided additional insured status under Contractor's General Liability policy with respect to liability arising out of Contractor's ongoing and completed operations performed on behalf of the County. County and its Agents additional insured status shall apply with respect to liability and defense of suits arising out of the Contractor's acts or omissions, whether such liability is attributable to the Contractor or to the County. The full policy limits and scope of protection also shall apply to the County and its Agents as an additional insured, even if they exceed the County's minimum Required Insurance specifications herein. Use of an automatic additional insured

endorsement form is acceptable providing it satisfies the Required Insurance provisions herein.

8.24.3 Cancellation of or Changes in Insurance

Contractor shall provide County with, or Contractor's insurance policies shall contain a provision that County shall receive, written notice of cancellation or any change in Required Insurance, including insurer, limits of coverage, term of coverage or policy period. The written notice shall be provided to County at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance for any other cancellation or policy change. Failure to provide written notice of cancellation or any change in Required Insurance may constitute a material breach of the Contract, in the sole discretion of the County, upon which the County may suspend or terminate this Contract.

8.24.4 Failure to Maintain Insurance

Contractor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Contract, upon which County immediately may withhold payments due to Contractor, and/or suspend or terminate this Contract. County, at its sole discretion, may obtain damages from Contractor resulting from said breach. Alternatively, the County may purchase the Required Insurance, and without further notice to Contractor, deduct the premium cost from sums due to Contractor or pursue Contractor reimbursement.

8.24.5 Insurer Financial Ratings

Coverage shall be placed with insurers acceptable to the County with A.M. Best ratings of not less than A:VII unless otherwise approved by County.

8.24.6 Contractor's Insurance Shall Be Primary

Contractor's insurance policies, with respect to any claims related to this Contract, shall be primary with respect to all other sources of coverage available to Contractor. Any County maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Contractor coverage.

8.24.7 Waivers of Subrogation

To the fullest extent permitted by law, the Contractor hereby waives its rights and its insurer(s)' rights of recovery against County under all the Required Insurance for any loss arising from or relating to this Contract. The Contractor shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

8.24.8 Subcontractor Insurance Coverage Requirements

Contractor shall include all Subcontractors as insureds under Contractor's own policies, or shall provide County with each Subcontractor's separate evidence of insurance coverage. Contractor shall be responsible for verifying each Subcontractor complies with the Required Insurance provisions herein, and shall require that each Subcontractor name the County and Contractor as additional insureds on the Subcontractor's General Liability policy. Contractor shall obtain County's prior review and approval of any Subcontractor request for modification of the Required Insurance.

8.24.9 Deductibles and Self-Insured Retentions (SIRs)

Contractor's policies shall not obligate the County to pay any portion of any Contractor deductible or SIR. The County retains the right to require Contractor to reduce or eliminate policy deductibles and SIRs as respects the County, or to provide a bond guaranteeing Contractor's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses.

Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

8.24.10 Claims Made Coverage

If any part of the Required Insurance is written on a claims made basis, any policy retroactive date shall precede the effective date of this Contract. Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.

8.24.11 Application of Excess Liability Coverage

Contractors may use a combination of primary, and excess insurance policies which provide coverage as broad as the underlying primary policies, to satisfy the Required Insurance provisions.

8.24.12 Separation of Insureds

All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

8.24.13 Alternative Risk Financing Programs

The County reserves the right to review, and then approve, Contractor use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements and captive insurance to satisfy the Required Insurance provisions. The County and its Agents shall be designated as an Additional Covered Party under any approved program.

8.24.14 County Review and Approval of Insurance Requirements

The County reserves the right to review and adjust the Required Insurance provisions, conditioned upon County's determination of changes in risk exposures.

8.25 Insurance Coverage

8.25.1 **Commercial General Liability** insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming County and its Agents as an additional insured, with limits of not less than:

General Aggregate: \$2 million

Products/Completed Operations Aggregate: \$1 million

Personal and Advertising Injury: \$1 million

Each Occurrence: \$1 million

8.25.2 **Automobile Liability** insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of Contractor's use of autos pursuant to this Contract, including owned, leased, hired, and/or non-owned autos, as each may be applicable.

8.25.3 **Workers Compensation and Employers' Liability** insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than \$1 million per accident. If Contractor will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to Contractor's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

- 8.25.4 **Professional Liability/Errors and Omissions** insurance covering Contractor's liability arising from any error, omission, neglect or wrongful act of the Contractor, its officers or employees with limits of not less than \$2 million per occurrence and \$4 million aggregate. Further, Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following this Contract's expiration, termination or cancellation.
- 8.25.5 **Crime Coverage:** A Fidelity Bond or Crime Insurance policy with limits of not less than \$5 million per occurrence. Such coverage shall protect against all loss of money, securities, or other valuable property entrusted by County to Contractor, and apply to all of Contractor's directors, officers, agents and employees who regularly handle or have responsibility for such money, securities or property. The County and its Agents shall be named as an Additional Insured and Loss Payee as its interests may appear. This insurance shall include third party fidelity coverage, include coverage for loss due to theft, mysterious disappearance, and computer fraud/theft, and shall not contain a requirement for an arrest and/or conviction.
- 8.25.6 **Privacy/Network Security (Cyber)** liability coverage providing protection against liability for (1) privacy breaches [liability arising from the loss or disclosure of confidential information no matter how it occurs]; (2) system breach; (3) denial or loss of service; (4) introduction, implantation or spread of malicious software code; (5) unauthorized access to or use of computer systems with limits of \$5 million. No exclusion/restriction for unencrypted portable devices/media may be on the policy.
- 8.25.7 **Performance Security Requirements:** Such surety may be provided by one of the following forms and conditioned upon faithful performance and satisfactory completion of services by Contractor.

- A. **Performance Bond:** A faithful performance bond in the sum of not less than three (3) months of the contract value payable to the County of Los Angeles and executed by a corporate surety licensed to transact business in the State of California; or
- B. **Certificate of Deposit (CD) of Letter of Credit (LOC):** A CD or an irrevocable LOC payable to the County of Los Angeles upon demand in an amount not less than three (3) months of the contract value. Such CD or LOC shall comply and be maintained throughout the term of the Contract.

8.26 Liquidated Damages

- 8.26.1 If, in the judgment of the Chief Executive Officer or designee, the Contractor is deemed to be non-compliant with the terms and obligations assumed hereby, the Chief Executive Officer, or designee, at his/her option, in addition to, or in lieu of, other remedies provided herein, may withhold the entire monthly payment or deduct pro rata from the Contractor's invoice for work not performed. A description of the work not performed and the amount to be withheld or deducted from payments to the Contractor from the County, will be forwarded to the Contractor by the Chief Executive Officer, or designee, in a written notice describing the reasons for said action.
- 8.26.2 If the Chief Executive Officer, or designee, determines that there are deficiencies in the performance of this Contract that the Chief Executive Officer, or designee, deems are correctable by the Contractor over a certain time span, the Chief Executive Officer, or designee, will provide a written notice to the Contractor to correct the deficiency within specified time frames. Should the Contractor fail to correct deficiencies within said time frame, the Chief Executive Officer or designee, may: (a) Deduct from the Contractor's payment, pro rata, those applicable portions of the Monthly Contract Sum; and/or (b) Deduct liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from

the failure of the Contractor to correct a deficiency within the specified time frame. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is One Hundred Dollars (\$100) per day per infraction, or as specified in the Performance Requirements Summary (PRS) Chart, as defined in Technical Exhibit 5, hereunder, and that the Contractor shall be liable to the County for liquidated damages in said amount. Said amount shall be deducted from the County's payment to the Contractor; and/or(c) Upon giving five (5) days notice to the Contractor for failure to correct the deficiencies, the County may correct any and all deficiencies and the total costs incurred by the County for completion of the work by an alternate source, whether it be County forces or separate private contractor, will be deducted and forfeited from the payment to the Contractor from the County, as determined by the County.

8.26.3 The action noted in Subparagraph 8.26.2 shall not be construed as a penalty, but as adjustment of payment to the Contractor to recover the County cost due to the failure of the Contractor to complete or comply with the provisions of this Contract.

8.26.4 This Subparagraph shall not, in any manner, restrict or limit the County's right to damages for any breach of this Contract provided by law or as specified in the PRS or Sub-paragraph 8.26.2, and shall not, in any manner, restrict or limit the County's right to terminate this Contract as agreed to herein.

8.27 Most Favored Public Entity

If the Contractor's prices decline, or should the Contractor at any time during the term of this Contract provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in this Contract, then such lower prices shall be immediately extended to the County.

8.28 Nondiscrimination and Affirmative Action

- 8.28.1 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.
- 8.28.2 The Contractor shall certify to, and comply with, the provisions of Exhibit D (Contractor's EEO Certification).
- 8.28.3 The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 8.28.4 The Contractor certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation.
- 8.28.5 The Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract.

- 8.28.6 The Contractor shall allow County representatives access to the Contractor's employment records during regular business hours to verify compliance with the provisions of this Subparagraph 8.28 when so requested by the County.
- 8.28.7 If the County finds that any provisions of this Subparagraph 8.28 have been violated, such violation shall constitute a material breach of this Contract upon which the County may terminate or suspend this Contract. While the County reserves the right to determine independently that the anti-discrimination provisions of this Contract have been violated, in addition, a determination by the California Fair Employment and Housing Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of this Contract.
- 8.28.8 The parties agree that in the event the Contractor violates any of the anti-discrimination provisions of this Contract, the County shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Contract.

8.29 Non Exclusivity

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Contractor. This Contract shall not restrict the Department from acquiring similar, equal or like goods and/or services from other entities or sources.

8.30 Notice of Delays

Except as otherwise provided under this Contract, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within one (1) business day, give notice thereof, including all relevant information with respect thereto, to the other party.

8.31 Notice of Disputes

The Contractor shall bring to the attention of the County Contract Administrator any dispute between the County and the Contractor regarding the performance of services as stated in this Contract. If the County Contract Administrator is not able to resolve the dispute, the CEO or designee shall resolve it.

8.32 Notice to Employees Regarding the Federal Earned Income Credit

The Contractor shall notify its employees, and shall require each Subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

8.33 Notice to Employees Regarding the Safely Surrendered Baby Law

The Contractor shall notify and provide to its employees, and shall require each Subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit I of this Contract and is also available on the Internet at www.babysafela.org for printing purposes.

8.34 Notices

All notices or demands required or permitted to be given or made under this Contract shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties as identified in Exhibits E (County's Administration) and F (Contractor's Administration). Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party. The CEO or designee shall have the authority to issue all notices or demands required or permitted by the County under this Contract.

8.35 Prohibition Against Inducement or Persuasion

Notwithstanding the above, the Contractor and the County agree that, during the term of this Contract and for a period of one year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

8.36 Public Records Act

8.36.1 Any documents submitted by the Contractor; all information obtained in connection with the County's right to audit and inspect the Contractor's documents, books, and accounting records pursuant to Subparagraph 8.38 (Record Retention and Inspection/Audit Settlement) of this Contract; as well as those documents which were required to be submitted in response to the Request for Proposals (RFP) used in the solicitation process for this Contract, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

8.36.2 In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret", "confidential", or "proprietary", the Contractor agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

8.37 Publicity

8.37.1 The Contractor shall not disclose any details in connection with this Contract to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing the Contractor's need to identify its services and related clients to sustain itself, the County shall not inhibit the Contractor from publishing its role under this Contract within the following conditions:

- The Contractor shall develop all publicity material in a professional manner; and
- During the term of this Contract, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the County without the prior written consent of the County's Risk Manager. The County shall not unreasonably withhold written consent.

8.37.2 The Contractor may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this Contract with the County of Los Angeles, provided that the requirements of this Sub-paragraph 8.37 shall apply.

8.38 Record Retention and Inspection/Audit Settlement

The Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. The Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. The Contractor agrees that the County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Contract. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be

kept and maintained by the Contractor and shall be made available to the County during the term of this Contract and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the County's option, the Contractor shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other location.

- 8.38.1 In the event that an audit of the Contractor is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by the Contractor or otherwise, then the Contractor shall file a copy of such audit report with the County's Auditor-Controller within thirty (30) days of the Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Contract. Subject to applicable law, the County shall make a reasonable effort to maintain the confidentiality of such audit report(s).
- 8.38.2 Failure on the part of the Contractor to comply with any of the provisions of this Subparagraph 8.38 shall constitute a material breach of this Contract upon which the County may terminate or suspend this Contract.
- 8.38.3 If, at any time during the term of this Contract or within five (5) years after the expiration or termination of this Contract, representatives of the County conduct an audit of the Contractor regarding the work performed under this Contract, and if such audit finds that the County's dollar liability for any such work is less than payments made by the County to the Contractor, then the difference shall be either: a) repaid by the Contractor to the County by cash payment upon demand or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Contractor from the County, whether under this Contract or otherwise. If such audit finds that the County's dollar liability for such work is more than the payments made by the County to the Contractor, then the difference

shall be paid to the Contractor by the County by cash payment, provided that in no event shall the County's maximum obligation for this Contract exceed the funds appropriated by the County for the purpose of this Contract.

8.38.4 In addition to the above, the Contractor agrees, should the County or its authorized representatives determine, in the County's sole discretion, that it is necessary or appropriate to review a broader scope of the Contractor's records (including, certain records related to non-County contracts) to enable the County to evaluate the Contractor's compliance with the County's Living Wage Program, that the Contractor shall promptly and without delay provide to the County, upon the written request of the County or its authorized representatives, access to and the right to examine, audit, excerpt, copy, or transcribe any and all transactions, activities, or records relating to any of its employees who have provided services to the County under this Contract, including without limitation, records relating to work performed by said employees on the Contractor's non-County contracts. The Contractor further acknowledges that the foregoing requirement in this Subparagraph relative to Contractor's employees who have provided services to the County under this Contract is for the purpose of enabling the County in its discretion to verify the Contractor's full compliance with and adherence to California labor laws and the County's Living Wage Program. All such materials and information, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Contractor and shall be made available to the County during the term of this Contract and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such materials and information prior to such time. All such materials and information shall be maintained by the Contractor at a location in Los Angeles County, provided that if any such materials and information is located outside Los Angeles County, then, at the County's option, the

Contractor shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such materials and information at such other location.

8.39 Recycled Bond Paper

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on this Contract.

8.40 Subcontracting

8.40.1 The requirements of this Contract may not be subcontracted by the Contractor **without the advance approval of the County**. Any attempt by the Contractor to subcontract without the prior consent of the County may be deemed a material breach of this Contract.

8.40.2 If the Contractor desires to subcontract, the Contractor shall provide the following information promptly at the County's request:

- A description of the work to be performed by the Subcontractor;
- A draft copy of the proposed subcontract; and
- Other pertinent information and/or certifications requested by the County.

8.40.3 The Contractor shall indemnify and hold the County harmless with respect to the activities of each and every Subcontractor in the same manner and to the same degree as if such Subcontractor(s) were the Contractor employees.

8.40.4 The Contractor shall remain fully responsible for all performances required of it under this Contract, including those that the Contractor has determined to subcontract, notwithstanding the County's approval of the Contractor's proposed subcontract.

- 8.40.5 The County's consent to subcontract shall not waive the County's right to prior and continuing approval of any and all personnel, including Subcontractor employees, providing services under this Contract. The Contractor is responsible to notify its Subcontractors of this County right.
- 8.40.6 The County Contract Administrator is authorized to act for and on behalf of the County with respect to approval of any subcontract and Subcontractor employees. After approval of the subcontract by the County, Contractor shall forward a fully executed subcontract to the County for their files.
- 8.40.7 The Contractor shall be solely liable and responsible for all payments or other compensation to all Subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the County's consent to subcontract.
- 8.40.8 The Contractor shall obtain certificates of insurance, which establish that the Subcontractor maintains all the programs of insurance required by the County from each approved Subcontractor. The Contractor shall ensure delivery of all such documents to:

**County of Los Angeles, Chief Executive Office
Risk Management Operations
3333 Wilshire Boulevard, Suite 820
Los Angeles, CA 90010
Attention: Contracts Administration and Insurance
Compliance Section**

before any Subcontractor employee may perform any work hereunder.

8.41 Termination for Breach of Warranty to Maintain Compliance with County's Child Support Compliance Program

Failure of the Contractor to maintain compliance with the requirements set forth in Subparagraph 8.14 (Contractor's Warranty of Adherence to County's Child Support Compliance Program), shall constitute default under this Contract. Without limiting the rights and remedies available to the County under any other provision of this

Contract, failure of the Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which the County may terminate this Contract pursuant to Subparagraph 8.43 (Termination for Default) and pursue debarment of the Contractor, pursuant to County Code Chapter 2.202.

8.42 Termination for Convenience

8.42.1 This Contract may be terminated, in whole or in part, from time to time, when such action is deemed by the County, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to the Contractor specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than ten (10) days after the notice is sent.

8.42.2 After receipt of a notice of termination and except as otherwise directed by the County, the Contractor shall:

- Stop work under this Contract on the date and to the extent specified in such notice, and
- Complete performance of such part of the work as shall not have been terminated by such notice.

8.42.3 All material including books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this Contract shall be maintained by the Contractor in accordance with Subparagraph 8.38 (Record Retention and Inspection/Audit Settlement).

8.43 Termination for Default

8.43.1 The County may, by written notice to the Contractor, terminate the whole or any part of this Contract, if, in the judgment of County Risk Manager:

- Contractor has materially breached this Contract; or

- Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Contract; or
- Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements under this Contract, or of any obligations of this Contract and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure.

8.43.2 In the event that the County terminates this Contract in whole or in part as provided in Subparagraph 8.43.1, the County may procure, upon such terms and in such manner as the County may deem appropriate, goods and services similar to those so terminated. The Contractor shall be liable to the County for any and all excess costs incurred by the County, as determined by the County, for such similar goods and services. The Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this Subparagraph.

8.43.3 Except with respect to defaults of any Subcontractor, the Contractor shall not be liable for any such excess costs of the type identified in Subparagraph 8.43.2 if its failure to perform this Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the County in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either

of them, the Contractor shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule. As used in this sub-paragraph, the term "Subcontractor(s)" means Subcontractor(s) at any tier.

8.43.4 If, after the County has given notice of termination under the provisions of this Subparagraph 8.43, it is determined by the County that the Contractor was not in default under the provisions of this Subparagraph 8.43, or that the default was excusable under the provisions of Subparagraph 8.43.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Subparagraph 8.42 (Termination for Convenience).

8.43.5 The rights and remedies of the County provided in this Subparagraph 8.43 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.44 Termination for Improper Consideration

8.44.1 The County may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Contract if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this Contract or securing favorable treatment with respect to the award, amendment, or extension of this Contract or the making of any determinations with respect to the Contractor's performance pursuant to this Contract. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

8.44.2 The Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the

County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.

- 8.44.3 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

8.45 Termination for Insolvency

8.45.1 The County may terminate this Contract forthwith in the event of the occurrence of any of the following:

- Insolvency of the Contractor. The Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Contractor is insolvent within the meaning of the Federal Bankruptcy Code;
- The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;
- The appointment of a Receiver or Trustee for the Contractor; or
- The execution by the Contractor of a general assignment for the benefit of creditors.

8.45.2 The rights and remedies of the County provided in this Sub-paragraph 8.45 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.46 Termination for Non-Adherence of County Lobbyist Ordinance

The Contractor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Contractor, shall fully comply with the County's Lobbyist Ordinance, County Code Chapter 2.160. Failure on the part of the Contractor or any County Lobbyist or County Lobbying firm retained by the Contractor to fully comply with the County's Lobbyist Ordinance shall

constitute a material breach of this Contract, upon which the County may in its sole discretion, immediately terminate or suspend this Contract.

8.47 Termination for Non-Appropriation of Funds

Notwithstanding any other provision of this Contract, the County shall not be obligated for the Contractor's performance hereunder or by any provision of this Contract during any of the County's future fiscal years unless and until the County's Board of Supervisors appropriates funds for this Contract in the County's Budget for each such future fiscal year. In the event that funds are not appropriated for this Contract, then this Contract shall terminate as of June 30 of the last fiscal year for which funds were appropriated. The County shall notify the Contractor in writing of any such non-allocation of funds at the earliest possible date.

8.48 Validity

If any provision of this Contract or the application thereof to any person or circumstance is held invalid, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby.

8.49 Waiver

No waiver by the County of any breach of any provision of this Contract shall constitute a waiver of any other breach or of such provision. Failure of the County to enforce at any time, or from time to time, any provision of this Contract shall not be construed as a waiver thereof. The rights and remedies set forth in this Sub-paragraph 8.49 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.50 Warranty Against Contingent Fees

8.50.1 The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established

commercial or selling agencies maintained by the Contractor for the purpose of securing business.

8.50.2 For breach of this warranty, the County shall have the right to terminate this Contract and, at its sole discretion, deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.51 Warranty of Compliance with County's Defaulted Property Tax Reduction Program

Contractor acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from County through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

Unless Contractor qualifies for an exemption or exclusion, Contractor warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this contract will maintain compliance, with Los Angeles County Code Chapter 2.206.

8.52 Termination for Breach of Warranty to Maintain Compliance with County's Defaulted Property Tax Reduction Program

Failure of Contractor to maintain compliance with the requirements set forth in Subparagraph 8.51 (Warranty of Compliance with County's Defaulted Property Tax Reduction Program) shall constitute default under this Contract. Without limiting the rights and remedies available to County under any other provision of this Contract, failure of Contractor to cure such default within ten (10) days of notice shall be grounds upon which County may terminate this Contract and/or pursue debarment of Contractor, pursuant to County Code Chapter 2.206.

8.53 Time Off for Voting

The Contractor shall notify its employees, and shall require each subcontractor to notify and provide to its employees, information regarding the time off for voting law (Elections Code Section 14000). Not less than ten (10) days before every statewide election, every Contractor and subcontractors shall keep posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of Section 14000.

9.0 UNIQUE TERMS AND CONDITIONS

9.1 Compliance with the County's Living Wage Program

9.1.1 Living Wage Program

This Contract is subject to the provisions of the County's ordinance entitled Living Wage Program as codified in Sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached as Exhibit J and incorporated by reference into and made a part of this Contract.

9.1.2 Payment of Living Wage Rates

1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not an "Employer" as defined under the Program (Section 2.201.020 of the County Code) or that the Contractor qualifies for an exception to the Living Wage Program (Section 2.201.090 of the County Code), the Contractor shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to the County, including, without limitation, "Travel Time" as defined below at Subsection 5 of this Subparagraph 9.1.2 under the Contract:

- a. Not less than \$11.84 per hour if, in addition to the per-hour wage, the Contractor contributes less than

\$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or

- b. Not less than \$9.64 per hour if, in addition to the per-hour wage, the Contractor contributes at least \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. The Contractor will be deemed to have contributed \$2.20 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time during the Contract, the Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits, the Contractor shall be required to pay its Employees the higher hourly living wage rate.

- 2. For purposes of this Subparagraph, "Contractor" includes any subcontractor engaged by the Contractor to perform services for the County under the Contract. If the Contractor uses any subcontractor to perform services for the County under the Contract, the subcontractor shall be subject to the provisions of this Subparagraph. The provisions of this Subparagraph shall be inserted into any such subcontract and a copy of the Living Wage Program shall be attached to the subcontract. "Employee" means any individual who is an employee of the Contractor under the laws of California, and who is providing full-time services to the Contractor, some or all of which are provided to the County under the Contract. "Full-time" means a minimum of forty (40) hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the County; however, fewer than thirty five (35) hours worked per week will not, in any event, be considered full-time.

3. If the Contractor is required to pay a living wage when the Contract commences, the Contractor shall continue to pay a living wage for the entire term of the Contract, including any option period.
4. If the Contractor is not required to pay a living wage when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement. The Contractor shall immediately notify the County if the Contractor at any time either comes within the Living Wage Program's definition of "Employer" or if the Contractor no longer qualifies for an exception to the Living Wage Program. In either event, the Contractor shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of the Contract, including any option period. The County may also require, at any time during the Contract and at its sole discretion, that the Contractor demonstrate to the County's satisfaction that the Contractor either continues to remain outside of the Living Wage Program's definition of "Employer" and/or that the Contractor continues to qualify for an exception to the Living Wage Program. Unless the Contractor satisfies this requirement within the time frame permitted by the County, the Contractor shall immediately be required to pay the living wage for the remaining term of the Contract, including any option period.
5. For purposes of the Contractor's obligation to pay its Employees the applicable hourly living wage rate under this Contract, "Travel Time" shall have the following two meanings, as applicable: 1) With respect to travel by an Employee that is undertaken in connection with this Contract, Travel Time shall mean any period during which an Employee physically travels to or from a County facility if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that

time; and 2) With respect to travel by an Employee between County facilities that are subject to two different contracts between the Contractor and the County (of which both contracts are subject to the Living Wage Program), Travel Time shall mean any period during which an Employee physically travels to or from, or between such County facilities if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that time.

9.1.3 Contractor's Submittal of Certified Monitoring Reports

The Contractor shall submit to the County certified monitoring reports at a frequency instructed by the County. The certified monitoring reports shall list all of the Contractor's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by the Contractor for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state the name and identification number of the Contractor's current health care benefits plan, and the Contractor's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on forms provided by the County (Exhibit K and Exhibit L), or other form approved by the County which contains the above information. The County reserves the right to request any additional information it may deem necessary. If the County requests additional information, the Contractor shall promptly provide such information. The Contractor, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

9.1.4 Contractor's Ongoing Obligation to Report Labor Law/Payroll Violations and Claims

During the term of the Contract, if the Contractor becomes aware of any labor law/payroll violation or any complaint,

investigation or proceeding (“claim”) concerning any alleged labor law/payroll violation (including but not limited to any violation or claim pertaining to wages, hours and working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination), the Contractor shall immediately inform the County of any pertinent facts known by the Contractor regarding same. This disclosure obligation is not limited to any labor law/payroll violation or claim arising out of the Contractor’s contract with the County, but instead applies to any labor law/payroll violation or claim arising out of any of the Contractor’s operations in California.

9.1.5 County Auditing of Contractor Records

Upon a minimum of twenty-four (24) hours’ written notice, the County may audit, at the Contractor’s place of business, any of the Contractor’s records pertaining to the Contract, including all documents and information relating to the certified monitoring reports. The Contractor is required to maintain all such records in California until the expiration of four (4) years from the date of final payment under the Contract. Authorized agents of the County shall have access to all such records during normal business hours for the entire period that records are to be maintained.

9.1.6 Notifications to Employees

The Contractor shall place County-provided living wage posters at each of the Contractor’s places of business and locations where the Contractor’s Employees are working. The Contractor shall also distribute County-provided notices to each of its Employees at least once per year. The Contractor shall translate posters and handouts into Spanish and any other language spoken by a significant number of Employees.

9.1.7 Enforcement and Remedies

If the Contractor fails to comply with the requirements of this Subparagraph, the County shall have the rights and remedies described in this Subparagraph in addition to any rights and remedies provided by law or equity.

1. Remedies For Submission of Late or Incomplete Certified Monitoring Reports. If the Contractor submits a certified monitoring report to the County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of the Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:
 - a. Withholding of Payment. If the Contractor fails to submit accurate, complete, timely and properly certified monitoring reports, the County may withhold from payment to the Contractor up to the full amount of any invoice that would otherwise be due, until the Contractor has satisfied the concerns of the County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.
 - b. Liquidated Damages. It is mutually understood and agreed that the Contractor's failure to submit an accurate, complete, timely and properly certified monitoring report will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being

late, inaccurate, incomplete or uncertified, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated damages in the amount of \$100 per monitoring report for each day until the County has been provided with a properly prepared, complete and certified monitoring report. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

c. Termination. The Contractor's continued failure to submit accurate, complete, timely and properly certified monitoring reports may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.

2. Remedies for Payment of Less Than the Required Living Wage. If the Contractor fails to pay any Employee at least the applicable hourly living wage rate, such deficiency shall constitute a breach of the Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

a. Withholding Payment. If the Contractor fails to pay one or more of its Employees at least the applicable hourly living wage rate, the County may withhold from any payment otherwise due the Contractor the aggregate difference between the living wage amounts the Contractor was required to pay its Employees for a given pay period and the amount actually paid to the employees for that pay period. The County may withhold said amount until the Contractor has satisfied the County that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b. Liquidated Damages. It is mutually understood and agreed that the Contractor's failure to pay any of its

Employees at least the applicable hourly living wage rate will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated damages of \$50 per Employee per day for each and every instance of an underpayment to an Employee. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

c. Termination. The Contractor's continued failure to pay any of its Employees the applicable hourly living wage rate may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.

3. Debarment. In the event the Contractor breaches a requirement of this Subparagraph, the County may, in its sole discretion, bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach, in accordance with Los Angeles County Code, Chapter 2.202, Determinations of Contractor Non-Responsibility and Contractor Debarment.

9.1.8 **Use of Full-Time Employees**

The Contractor shall assign and use full-time Employees of the Contractor to provide services under the Contract unless the Contractor can demonstrate to the satisfaction of the County that it is necessary to use non-full-time Employees based on staffing efficiency or County requirements for the work to be performed under the

Contract. It is understood and agreed that the Contractor shall not, under any circumstance, use non-full-time Employees for services provided under the Contract unless and until the County has provided written authorization for the use of same. The Contractor submitted with its proposal a full-time Employee staffing plan. If the Contractor changes its full-time Employee staffing plan, the Contractor shall immediately provide a copy of the new staffing plan to the County.

9.1.9 Contractor Retaliation Prohibited

The Contractor and/or its Employees shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any Employee, person or entity who has reported a violation of the Living Wage Program to the County or to any other public or private agency, entity or person. A violation of the provisions of this Subparagraph may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.

9.1.10 Contractor Standards

During the term of the Contract, the Contractor shall maintain business stability, integrity in employee relations and the financial ability to pay a living wage to its employees. If requested to do so by the County, the Contractor shall demonstrate to the satisfaction of the County that the Contractor is complying with this requirement.

9.1.11 Employee Retention Rights

1. The Contractor shall offer employment to all retention employees who are qualified for such jobs. A “retention employee” is an individual:

- a. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act; and
 - b. Who has been employed by a Contractor under a predecessor Proposition A contract or a predecessor cafeteria services contract with the County for at least six months prior to the date of this new Contract, which predecessor contract was terminated by the County prior to its expiration; and
 - c. Who is or will be terminated from his or her employment as a result of the County entering into this new contract.
2. The Contractor is not required to hire a retention employee who:
 - a. Has been convicted of a crime related to the job or his or her performance; or
 - b. Fails to meet any other County requirement for employees of a Contractor.
 3. The Contractor shall not terminate a retention employee for the first ninety (90) days of employment under the contract, except for cause. Thereafter, the Contractor may retain a retention employee on the same terms and conditions as the Contractor's other employees.

9.1.12 Neutrality in Labor Relations

The Contractor shall not use any consideration received under the Contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of the Contractor's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining Contract, or which would otherwise be permitted under the provisions of the National Labor Relations Act.

9.2 Health Insurance Portability and Accountability Act of 1996 ("HIPAA")

The County is subject to the Administrative Simplification requirements and prohibitions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the "HIPAA Rules"). Under this Agreement, the Contractor provides services to the County and the Contractor creates, has access to, receives, maintains, or transmits Protected Health Information as defined in Exhibit N in order to provide those services. The County and the Contractor therefore agree to the terms of Exhibit N, "Business Associate Under Health Insurance Portability and Accountability Act of 1996 ("HIPAA")"

9.3 Local Small Business Enterprise (SBE) Preference Program

- 9.3.1 This Contract is subject to the provisions of the County's ordinance entitled Local Small Business Enterprise Preference Program, as codified in Chapter 2.204 of the Los Angeles County Code.
- 9.3.2 The Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Small Business Enterprise.
- 9.3.3 The Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Local Small Business Enterprise.
- 9.3.4 If the Contractor has obtained certification as a Local Small Business Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have

known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, shall:

1. Pay to the County any difference between the Contract amount and what the County's costs would have been if the Contract had been properly awarded;
2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the contract; and
3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the state and Internal Services Department of this information prior to responding to a solicitation or accepting a contract award.

9.4 Ownership of Materials, Reports, and Records

- 9.4.1 Upon expiration of this Contract, or in the event of cancellation, on the demand of the County Risk Manager or CCA, all documents, reports, records, case files, correspondence and work product relating to Contractor's operations under this Contract shall be immediately returned to the CCA or to such other location in the County as the CCA may direct. It is understood that all of the materials described above are the property of County and not of the Contractor herein.
- 9.4.2 During the term of this Contract and for five (5) years thereafter, the Contractor shall maintain and provide security for all of the Contractor's working papers prepared under this Contract. County shall have the right to inspect, copy and use at any time during and subsequent to the

term of this Contract, any and all such working papers and all information contained therein.

9.5 Intentionally Omitted

9.6 Intentionally Omitted

9.7 Intentionally Omitted

9.8 Data Destruction

Contractor(s) and Vendor(s) that have maintained, processed, or stored the County of Los Angeles' ("County") data and/or information, implied or expressed, have the sole responsibility to certify that the data and information have been appropriately destroyed consistent with the National Institute of Standards and Technology (NIST) Special Publication SP 800-88 titled *Guidelines for Media Sanitization*. Available at:

<http://csrc.nist.gov/publications/PubsDrafts.html#SP-800-88 Rev.%201>

The data and/or information may be stored on purchased, leased, or rented electronic storage equipment (e.g., printers, hard drives) and electronic devices (e.g., servers, workstations) that are geographically located within the County, or external to the County's boundaries. The County must receive within ten (10) business days, a signed document from Contractor(s) and Vendor(s) that certifies and validates the data and information were placed in one or more of the following stored states: unusable, unreadable, and indecipherable.

Vendor shall certify that any County data stored on purchased, leased, or rented electronic storage equipment and electronic devices, including, but not limited to printers, hard drives, servers, and/or workstations are destroyed consistent with the current National Institute of Standard and Technology (NIST) Special Publication SP-800-88, *Guidelines for Media Sanitization*. Vendor shall provide County with written certification, within ten (10) business days of removal of any electronic storage equipment and devices, that validates that any and all County data was destroyed and is unusable, unreadable, and/or undecipherable.

9.9 Disabled Veteran Business Enterprise Preference Program

9.9.1 This Contract is subject to the provisions of the County's ordinance entitled Disabled Veteran Business Enterprise

Preference Program, as codified in Chapter 2.211 of the Los Angeles County Code.

- 9.9.2 Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Disabled Veteran Business Enterprise.
- 9.9.3 Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Disabled Veteran Business Enterprise.
- 9.9.4 If Contractor has obtained certification as a Disabled Veteran Business Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, shall:
1. Pay to the County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;
 2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract; and
 3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any business that has previously obtained proper certification, however, as a

result of a change in their status would no longer be eligible for certification, and fails to notify the state and ISD of this information prior to responding to a solicitation or accepting a contract award.

IN WITNESS WHEREOF, Contractor has executed this Contract, or caused it to be duly executed and the County of Los Angeles, by order of its Board of Supervisors has caused this Contract to be executed on its behalf by the Mayor of said Board and attested by the Executive Officer-Clerk of the Board of Supervisors thereof, the day and year first above written.

TRISTAR RISK MANAGEMENT

By [Signature]
Name
Vice President
Title

COUNTY OF LOS ANGELES

By [Signature]
(Mayor/Chairman of the Board of Supervisors)

ATTEST:

PATRICK OGAWA
Acting Executive Officer
of the Board of Supervisors

By [Signature]
DEPUTY



78425

APPROVED AS TO FORM:

MARY C. WICKHAM
Interim County Counsel

By [Signature]
Principal Deputy County Counsel

I hereby certify that pursuant to Section 25103 of the Government Code delivery of this document has been made.

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

PATRICK OGAWA
Acting Executive Officer
Clerk of the Board of Supervisors

23

OCT 27 2015

Contract - Workers' Compensation Claims Third Party Administration Services Deputy

By [Signature]
PATRICK OGAWA
ACTING EXECUTIVE OFFICER

EXHIBIT A
STATEMENT OF WORK

STATEMENT OF WORK
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1.0 SCOPE OF WORK

The Chief Executive Office is mandated to administer and operate a complete self-insured workers' compensation system to ensure full benefits under the law to County employees. (Technical Exhibit 1) The Contractor shall provide workers' compensation claims administration services for all existing claims as well as all reopened and new claims reported during the Contract term for designated County departments. These County departments are referenced in Technical Exhibit 2 of this Contract.

The Contractor is expected to provide these services in accordance with performance standards, including:

- 1.1 Those specific standards and requirements set forth in this Contract.
- 1.2 To the extent a specific standard or requirement is not set forth in this Contract, those standards and requirements set forth in the State of California workers' compensation statutes (including Labor Code Section 3201.7), codes, regulations, or other governing statutes and regulations shall be in full force and effect, including any amendment to these during the term of this Contract.
- 1.3 To the extent a specific standard or requirement is not set forth in this Contract, those standards and requirements set forth in any Change Notice signed by the County's Risk Manager and the Contractor's Project Manager.

2.0 ADDITION AND/OR DELETION OF FACILITIES, SPECIFIC TASKS, AND/OR WORK HOURS

- 2.1 County will have the right to change work procedures and add/delete departments, service locations, specific tasks, and/or work hours when it is in the best interest of County to do so.
- 2.2 All changes to address matters must be made in accordance with Subparagraph 8.1 (Amendments and Change Notices) of the Contract.

3.0 QUALITY CONTROL

The Contractor shall establish and utilize a comprehensive Quality Control Plan to assure the County is provided a consistently high level of service throughout the term of the Contract. The Plan shall be submitted to the CCA for review. The plan shall include:

- 3.1 Method of supervision to ensure that Contract requirements are being met.
- 3.2 A record of all supervisory reviews conducted by the Contractor, any corrective action taken, the time a problem was first identified, a clear description of the problem, and the time elapsed between identification and completed corrective action. This record shall be available for County review upon request.
- 3.3 Periodic claim review meetings with County department representatives, CCA, County loss control, and defense attorneys where appropriate. Adjuster shall prepare 'Claim Status' per Technical Exhibit 9 in preparation for the meeting to provide disposition update and address concerns per day-to-day department inquiries.
- 3.4 A Contractor-engaged independent public accounting firm to perform a Statement of Auditing Standards (SAS) No. 70 (Type II) audit. Such audit shall be performed once per year. The Contractor shall submit the Service Auditor's Report to the County within seven (7) days of its receipt.

4.0 QUALITY ASSURANCE PLAN

The County will evaluate the Contractor's performance under the Contract using the quality assurance procedures as defined in the Contract, Paragraph 8.0 (Standard Terms and Conditions) Subparagraph 8.15 (County Quality Assurance Plan).

4.1 Monthly Meetings

Contractor is required to attend a scheduled monthly meeting. Monthly meetings shall ensure:

- 4.1.1 Contractor review of procedures and practices with County personnel to ensure the County's WC Program is in compliance with State and Federal requirements, as well as sound WC claims management services determined by the County.
- 4.1.2 Contractor assistance is provided to the County to update policy and procedures to implement legislative changes or State and Federal rules and regulations impacting the County's WC program.

4.2 Contract Discrepancy Report (Technical Exhibit 6)

Verbal notification of a Contract discrepancy will be made to the Contractor Project Manager as soon as possible whenever a Contract discrepancy is identified. The problem shall be resolved within a time period mutually agreed upon by the County and the Contractor.

The CCA will determine whether a formal Contract Discrepancy Report (CDR) shall be issued. Upon receipt of this document, the Contractor is required to respond in writing to the CCA within five (5) workdays, acknowledging the reported discrepancies or presenting contrary evidence. A plan for correction of all deficiencies identified in the CDR shall be submitted to the CCA within five (5) workdays from County's review of the Contractor's Response, where presentation of contrary evidence is insufficient to eliminate the reported discrepancy.

4.3 County Observations

In addition to departmental contracting staff, other County personnel may observe performance, activities, and review documents relevant to this Contract at any time during normal business hours; however, these personnel may not unreasonably interfere with the Contractor's performance.

A CDR may be initiated by the CCA based upon County observations.

4.4 Performance Evaluation Meetings

The Contractor's Project Manager shall meet with the CCA or his/her designee at regularly scheduled intervals, as determined by the CCA, during the term of the Contract. The purpose of such meetings shall be dissemination of information from the County to the Contractor, and discussion of policy and procedural matters relevant to the Contractor's performance and the County Risk Management's monitoring function. Contractor is expected to use these meeting to discuss practice/procedure updates necessary for implementation of new regulatory changes.

4.5 Performance Audit

Claim files and records are subject to audit by the County or its choice of independent auditor at any time during the term of the Contract (see Contract, Subparagraph 8.38 (Record Retention and Inspection/Audit Settlement) and Subparagraph 9.4 (Ownership of Materials, Reports and Records)). Performance audit may cover any

and all requirements of this SOW. Claim records may be the subject of a financial audit at the County's discretion.

5.0 DEFINITIONS

As referenced in Contract Paragraph 5.0, Definitions.

6.0 RESPONSIBILITIES

The County's and the Contractor's responsibilities are as follows:

COUNTY

6.1 Personnel

The County will administer the Contract according to the Contract, Paragraph 6.0 (Administration of Contract – County). Specific personnel performing these duties will include:

6.1.1 CCA shall be identified by name, address, and telephone number in writing at the time the Contract is awarded. The CCA is responsible for:

6.1.1.1 Monitoring the Contractor's performance in the daily operation of this Contract.

6.1.1.2 Providing direction to the Contractor in areas relating to policy, information and procedural requirements. The CCA's interpretation shall prevail without limitation absent written substantive question directed to the County Risk Manager by the Contractor.

6.1.2 County Risk Manager is responsible for:

6.1.2.1 Preparing Amendments in accordance with the Contract, Paragraph 8.0 (Standard Terms and Conditions), Subparagraph 8.1 (Amendments and Change Notices).

6.1.2.2 Resolving disputes regarding substantive questions Contractor expresses in writing regarding the CCA's interpretation of Federal, State and local laws, civil procedures, legal process, court rules and administrative regulations, consulting with County Counsel as appropriate.

6.2 Furnished Items

The County will provide the Contractor:

- 6.2.1 Release of all case files for pick-up by the Contractor prior to the start date of the Contract.
- 6.2.2 Orientation/transition plan approval with provision of County's claim administration and information system access for key Contractor personnel prior to the start date of the Contract. Contractor expenses for participation in orientation or training are solely the responsibility of the Contractor.
- 6.2.3 Identification of Excess Carrier information by coverage period for duration of self-insured program.
- 6.2.4 Contact information for support service contractors and terms of agreements between the County and support service contractors impacting TPA performance expectations. These may include:
 - 6.2.4.1 Risk management consultants;
 - 6.2.4.2 Alternative dispute resolution experts;
 - 6.2.4.3 Defense attorneys;
 - 6.2.4.4 Bill review services;
 - 6.2.4.5 Utilization review services;
 - 6.2.4.6 Nurse Case Management (NCM) services; and
 - 6.2.4.7 Pharmacy benefit management service.
- 6.2.5 Settlement/payment authority and procedure for making settlement/ payment authority requests to obtain authority above delegated authority.

CONTRACTOR

6.3 Project Manager

- 6.3.1 Contractor shall provide a full-time Project Manager and designated alternate(s). County must have access to the Project Manager/alternate(s) during business hours 8:00 a.m. to 5:00 p.m., Monday through Friday. Contractor shall

provide a telephone number where the Project Manager may be reached on a twenty-four (24) hour per day basis.

- 6.3.2 Project Manager shall act as a central point of contact with the County.
- 6.3.3 Project Manager and alternate(s) shall have three (3) years of experience in supervising or managing WC claims TPA service in California.
- 6.3.4 County reserves the right to approve or reject the TPA's selection of the Contract Manager and any replacement recommended by the Contractor.
- 6.3.5 Project Manager and alternate(s) shall have full authority to act for Contractor on all matters relating to the daily operation of the Contract. Project Manager and alternate(s) shall be able to effectively communicate in English, both orally and in writing.
- 6.3.6 Project Manager and alternate(s) shall possess a valid "Certificate of Consent to Administer Self-Insured Employers WC Claims." Possession of certificate shall be required during the entire contracted period (Labor Code Section LCS) 3702.1).
- 6.3.7 Project Manager and alternate(s) requirement applies to each TPA location.

6.4 Staffing/Organization

- 6.4.1 Contractor shall assign a sufficient number of employees to perform the required work to meet County's requirements and ensure quality customer service.
- 6.4.2 Contractor shall be required to complete a background check on their employees as set forth in Subparagraph 7.4 of the Contract (Background & Security Investigations).
- 6.4.3 Sufficient number of staff shall possess professional certification to ensure capacity to comply with performance requirements outlined in Technical Exhibits 4 and 5, including:
 - A valid "Consent to Administer Self-Insured Employers WC Claims" certificate from the Self-Insurance Plans of the State of California.

- Workers' Compensation Claims Professional designation through coursework provided by the Insurance Educational Association.
- Certified Disability Management Professional designation through coursework provided by the Insurance Educational Association.
- Any continuing education required to keep professional staffing designation or certification current.

6.4.4 The Contractor shall maintain a current and accurate list of all its employees providing services under this contract. The list shall include each employee's name, current address, phone number, current salary, date of employment, date of assignment to County claims handling responsibility, termination, and any additional data on licensing and continuing education, behavior or job performance pertinent to the provision of Contract services.

6.4.5 The Contractor shall retain and provide to the County upon request a copy of the Employment Application and/or Employee Resume for all employees assigned to the County Program.

6.5 Program Orientation, Development, and Termination

6.5.1 The Contractor shall comply with all County Workers' Compensation Claims Administration Policies and Standards (CWCCAPS), as provided by the CCA and is responsible for overall coordination and integration of claims services. Contractor will provide a plan for 'Orientation' of department personnel to effect an orderly transition to the new Contract. The orientation plan must provide sufficient management support and staffing to effect an orderly transition of claim files and materials.

6.5.2 Contractor shall ensure their employees are appropriately identified, as specified in Subparagraph 7.3 (Contractor's Staff Identification) of the Contract.

6.5.3 At the sole discretion of the County, the Contractor shall take necessary steps to reduce costs, increase productivity and to enhance the quality and level of claims administration service. Prior to Contract implementation, the Contractor and CCA shall prepare a list of required reports and records, with

time deadlines. The reports required to be provided by the Contractor may include:

6.5.3.1 Monthly Reports

6.5.3.1.1 A report detailing the cases received and action taken in accordance with a format and data elements developed by the County in cooperation with the Contractor.

6.5.3.1.2 Statistical and narrative reports to assist the County in evaluating its WC program.

6.5.3.1.3 Statistical and narrative reports on outstanding issues to be addressed at Performance Evaluation Meetings.

6.5.3.2 Quarterly Reports

A written status report on selected open claims. Parameters and scope of the report will be established by Contractor and CCA within thirty (30) days of award of Contract.

6.5.3.3 Quarterly Meetings

The County anticipates quarterly reviews of its more serious, high exposure and litigated claims.

6.5.3.3 Annual Reports

A comprehensive annual statistical summary and narrative report to serve as the basis of the WC program and to permit preparation of reports required by the State Department of Industrial Relations.

6.5.3.4 Other Reports

Contractor shall furnish upon County's request loss runs for managerial, loss control, actuarial or financial purposes. The actuarial reports shall be electronically transmitted to County's designated actuary in the format required by the actuarial firm.

- 6.5.4 Upon Contract award, Contractor shall make arrangements for claim file record retention. All medical only claim files will be retained for ten (10) years from the date of injury. All indemnity claim files which do not involve permanent disability payment and have no payment activity for five years will be retained for ten (10) years from the date of injury. All indemnity claim files which involve payment activity within the last five years and cases with permanent disability payments or awards for lifetime medical treatment will be retained indefinitely. No claims will be destroyed without CCA approval and the Contractor shall be responsible for storage of all files within the above criteria during the term of this Contract. Contractor shall be responsible for pick up and transportation between current storage site and any new storage site the CCA may approve.
- 6.5.5 The Contractor shall provide courier service between the Contractor's office and such County offices as are designated in writing by the CCA. A schedule shall be established for the pick-up and delivery of all claim files, claims mail and related items. The Contractor shall pay the costs of such services out of its own resources, including any and all expenses involved in transferring case files to the Contractor at the beginning of the Contract.
- 6.5.6 In the event of contract expiration or termination prior to expiration of the Contract, Contractor shall cooperate with the County to provide for the transition to whatever service replacement method the County determines to be in its best interest. Contract termination transition shall be in compliance with Contract provisions, California law, and best practices for transfer of responsibility.

6.6 Materials and Equipment

The purchase of materials and equipment to provide the needed services is the responsibility of the Contractor. Materials and equipment required include:

6.6.1 Secured Computing Environment for Access to the County's CIS

The County has a license to use and has installed a secure enterprise computer software for the County's CIS. The Contractor shall be allowed authorized access to this system by provision of a secured local area network, have a workstation configuration to support Window 7 operating

system and Internet Explorer 11, and a broadband connection to achieve optimal processing in the Windows environment. The Contractor shall maintain the capacity to send and receive e-mail for each claims examiner, claims supervisor, and claims manager assigned to County cases. Contractor shall comply with CCA specified e-mail protocol dealing with content and confidentiality when using e-mail for County cases.

- 6.6.2 Work space and work stations, furniture, transportation, supplies, office equipment, materials, and other items necessary to perform all services required by this SOW.
- 6.6.3 Contractor shall provide safe, adequate and ergonomically correct work station for its employees, OSCRs, and other County Contractors having a need to access the Contractor's location. Access shall include free parking, work station, computer access, communication system access, and necessary supplies.

6.7 Training

- 6.7.1 Contractor shall provide training programs for all new employees and continuing in-service training for all employees to ensure compliance with performance standards.
- 6.7.2 All employees shall be trained in their assigned tasks and in the safe handling of equipment.
- 6.7.3 Contractor shall provide Special Investigation (SIU) Policies and Procedures Manual.
 - 6.7.3.1 Within thirty (30) days of Contract inception, at no cost to the County, the Contractor will develop written Special Investigation Unit (SIU) policies and procedures relating to the identification, investigation and prosecution of potential fraud cases.
 - 6.7.3.2 Within sixty (60) days of contract inception, at no cost to the County, the Contractor will train key personnel with SIU training to ensure aggressive, cost effective investigation and appropriate referrals to the Department of Insurance and District Attorney.

6.7.4 Contractor shall provide Claims Administration Procedure Manual and Business Continuity Plan:

6.7.4.1 Within six months of the inception date of the contract, Contractor shall provide to the CCA a "Claim Administration Procedure Manual" describing policies and procedures for the administration of County cases detailing approval limits, responsibilities, reporting requirements, Quality Control Plan, etc. Such manual shall be provided to and utilized by Contractor staff handling County claims.

6.7.4.2 In addition, the Contractor will provide to the CCA a written Business Continuity Plan describing a structured and integrated process that ensures uninterrupted provision of critical services related to this Contract following an event which could interrupt these business operations. The plan shall include the following:

1. A description of critical services and business processes.
2. Contractor policies and procedures to assure continued business operations following an event.
3. Address, computer, telephone, facsimile, key contact and all other critical information concerning alternative business processes and/or location(s) following an event.

Contractor shall provide CCA with annual plan updates on the anniversary of the Contract.

This plan is subject to the County's review. The CCA shall not be required to identify nor notify Contractor of deficiencies in the Contractor's Business Continuity Plan. The County shall neither assume responsibility nor liability for the Contractor's Business Continuity Plan.

6.8 Contractor's Office

6.8.1 Contractor shall maintain an office within 50 miles of the Kenneth Hahn Hall of Administration, 500 West Temple

Street, Los Angeles, CA 90012, with a telephone in the company's name where Contractor administers County claims. It is preferred the service office be located within the County or an adjacent county.

6.8.2 Office location must comply with Contract requirement during term of Contract.

6.8.3 The Contractor shall be responsible for safeguarding all County claims and property provided for the Contractor's use or in the Contractor's care, custody, and control. At the close of each workday, checks, cases, files, supplies, equipment and computer access shall be secured by the Contractor.

6.8.4 The Contractor shall provide a means of and be responsible for restricting access to the files, applications, and computer terminals to only authorized persons.

7.0 HOURS/DAY OF WORK

The office shall be staffed during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, by at least one (1) employee who can respond to inquiries. When the office is closed, an answering service shall be provided to receive calls. The Contractor shall answer calls received by the end of the next business day.

8.0 WORK SCHEDULES

Contractor shall submit for review and approval a work schedule for to the County Contract Administrator within five (5) days prior to starting work.

9.0 INTENTIONALLY OMITTED

10.0 SPECIFIC WORK REQUIREMENTS

10.1 Claims Management

Contractor's responsibility for specific claims management activity includes compliance with County's policies and procedures by:

10.1.1 Initiating timely contact with claimant, department, witnesses, and treatment providers to initiate investigation and compensability evaluation.

10.1.2 Complete claim set up accurately and timely.

- 10.1.3 Where compensability is questionable or apportionment is likely, complete investigation (including statements of pertinent parties, development of medical history, use of Medical-Legal examination as appropriate). Insurance Service Office (ISO) bodily index and EDEX reporting shall be done on all indemnity claims at no cost to the County.
- 10.1.4 Provide timely and appropriate Division of Workers' Compensation (DWC) benefit determinations (accept, delay, deny, pay benefits, end benefits, resume benefits, etc.).
- 10.1.5 For delayed claims, use a compensability determination checklist similar to the "Delayed Claims Administration Report" shown in Technical Exhibit 3.
- 10.1.6 Maintain statutory compliance (benefit notices, wage verification, MMSEA identification and reporting, etc.)
- 10.1.7 Develop and implement plan of action to resolve claims by:
 - 10.1.7.1 Determining the extent and degree of permanent disability.
 - 10.1.7.2 Obtain County approvals in accordance with limits established by the CCA prior to the negotiation of any compromise and release agreement or stipulation.
- 10.1.8 Refer suspected fraud to the Special Investigation Unit and OSCR, and follow up for report to appropriate authority as necessary.
- 10.1.9 Accurately input information developed and received into the CIS data fields during periodic claim action plan review and implementation follow up scheduled no less than 45-day intervals for active indemnity claims and 180-day intervals for future medical claims.
- 10.1.10 Maintain communication with Department Return-to-Work Coordinators to provide status updates, concurrence with action plan, and response to day-to-day inquiries.
- 10.1.11 Provide the County's Risk Management Branch and/or the long-term and short-term disability (LTD and STD) claims adjusting contractor with pertinent claim information. The

LTD and STD contractor shall provide an authorization signed by the employee.

10.2 Medical Management

Contractor's responsibility for specific medical management activity includes compliance with County's policies and procedures to implement:

10.2.1 Treatment monitoring to ensure positive outcome through use of:

10.2.1.1 Communication with injured worker and the primary treatment provider (PTP) to assess appropriateness of treatment plans.

10.2.1.2 Petition for PTP removal where non-compliance with California Code of Regulations Section (CCRS) 9785 is unaffected by communications.

10.2.1.3 The County has contracts with various Medical Management and Cost Containment (MMCC) providers, which includes the provision of Medical Provider Networks (MPNs). The Contractor is expected to facilitate medical control using these MPNs.

10.2.1.4 Utilization review (UR) in compliance with LCS 4610, and/or sections 9792.6 through 9792.12 of Title 8, CCR. Expected UR usage includes: prospective review, retrospective review, concurrent review, pharmacy review, and peer review. Contractor is expected to maintain adequate staffing to respond timely to treatment authorization requests per LCS 4600.4.

10.2.1.5 Telephonic or field nurse case management (TNCM or FNCM) to address claims with complex medical issues. Contractor shall assign FCNMs only with OSCR approval. Contractor is responsible to develop a NCM plan of action and budget as well as review related expense bills for compliance.

10.2.2 Medical cost containment:

10.2.2.1 The Contractor shall ensure that all statements for medical benefits are reviewed and all amounts authorized for payment have been determined in accordance with the Official Medical Fee Schedule adopted by the Administrative Director of the Division of Workers' Compensation. Contractor shall utilize as necessary and appropriate any medical management program established by the County. All TPA subcontractors or vendors shall be subject to prior review and approval by the CCA.

10.2.2.2 Lien closure efforts to include negotiation and resolution within authority, and mandatory submission of lien resolution affidavit to County's Defense Attorney at least ten (10) days prior to the Mandatory Settlement Conference (MSC).

10.3 Return to Work, Rehabilitation/Supplemental Job Displacement Benefits

10.3.1 Under the direction of the CCA, Contractor will support County departments to implement the County's Return-to-Work Program, including:

10.3.1.1 Obtaining work capacity reports from PTP using evidence-based disability guidelines (MD Guidelines or Official Disability Guidelines) to establish expectations and goals in the RTW process and provide the information to the Department RTW Coordinator timely and accurately.

10.3.1.2 Providing all appropriate physicians with job description for RTW consideration.

10.3.1.3 Assigning vendors to complete ergonomic evaluations, as necessary.

10.3.1.4 Where modified return to work is successfully coordinated, follow up for increased work capacity to facilitate return to work to usual and customary position.

- 10.3.1.5 Providing temporary and permanent work restriction letters to the Department RTW Coordinator within ten (10) days of receipt of pertinent documentation.

10.4 Subrogation and Other Recoveries Management

- 10.4.1 Contractor is responsible to identify eligibility for recovery related to:

- 10.4.1.1 Second Injury Fund.

- 10.4.1.2 Subrogation against third party tort-feasor at fault for cause of injury to County employee.

- 10.4.1.3 Co-defendant responsible for contribution to extent of injury due to share of cumulative trauma period or apportionment.

- 10.4.2 Contractor is responsible for pursuit of recovery, including:

- 10.4.2.1 Communication of notice of intent to pursue recovery.

- 10.4.2.2 Periodic follow up to update subrogation eligibility where third party is at fault for cause of injury to County employee.

- 10.4.2.3 Negotiations to obtain recovery with assistance from legal counsel as approved by County Counsel where representation is necessary to preserve legal rights to recovery.

- 10.4.2.4 Refer subrogation matters above the threshold established by the CCA to the Risk Management Branch designee for oversight and assistance with recovery pursuit.

- 10.4.3 Contractor is responsible to appropriately handle recoveries by:

- 10.4.3.1 Recording the recovery in the CIS for the claim.

- 10.4.3.2 Submitting any recovery checks to CEO-Budget and Fiscal for processing.

- 10.4.4 Contractor shall provide the CEO Risk Management Branch a log tracking all open subrogation cases on a quarterly basis.

10.5 Litigation and Subrogation

County Counsel, or a designated private law firm, provides legal services for all County Workers' Compensation Claims. Contractor's responsibilities include the following:

- 10.5.1 Provide all necessary claims information and other assistance to legal counsel for the defense of litigated claims.
 - 10.5.1.1 Provide a copy of all notices of conferences, mandatory settlement conferences (MSCs) or hearings before the WCAB to County Counsel or designated defense counsel within five (5) days from date of receipt.
 - 10.5.1.2 All litigation files shall be prepared and sent to County Counsel within thirty (30) days from the date the WCAB application or any notice of representation is received. Failure to prepare and send the litigation file within forty-five (45) days shall subject the Contractor to a \$1,000 fee reduction pursuant to Subparagraph 13.2.2 of this Statement of Work.
 - 10.5.1.3 Forward all medical reports and correspondence from applicant or applicant's attorney to County's defense attorney within five days from date of receipt.
 - 10.5.1.4 Provide to County's defense attorney a complete summary of all benefits paid (amounts and periods) to the injured employee along with a completed Balance Sheet [, Technical Exhibit 8] and lien resolution affidavit, at least ten (10) days prior to any MSC and provide an updated summary as necessary for other WCAB proceedings.
 - 10.5.1.5 Correspondence, telephone calls, and e-mail from defense attorney's will be responded to within two (2) weeks or sooner if the correspondence is urgent in nature, e.g.

necessitated by an upcoming WCAB appearance date.

10.5.2 Provide a written status report on open litigated as requested. Parameters of this report will be established by CCA.

10.6 Fiscal Management

10.6.1 As directed by CCA, Contractor is expected to approve claims for payment and input and process payments through CIS.

10.6.2 Contractor's payment accountability includes:

10.6.2.1 Compliance with Government Code Section 31000.8 by establishing and maintaining payment control procedures to ensure accurate and secure payment processing within delegated authority (see Technical Exhibit 7).

10.6.2.2 Payments shall be input into CIS for payment of benefits and other claims file expenses.

10.6.3 Contractor's Fiscal responsibility includes maintaining accurate reserves by:

10.6.3.1 Establishing initial reserves within two (2) working days of claim receipt.

10.6.3.2 Documenting review of reserves during interval claim reviews no less frequently than semi-annually.

10.6.3.3 Completing 'Balance Sheet' to reconcile payments made with payments due.

10.6.3.4 Adjusting reserves for changes in indemnity and medical benefits.

10.7 Support Services

The County has contracts with a number of private firms as discussed above in Subparagraph 6.24 to provide medical management and cost containment services. The Contractor shall use only those firms approved by the County.

Contractor shall establish and maintain panels of firms that provide services peripheral to the management of workers' compensation

claims: AOE/COE and sub-rosa investigation services, transportation services, record copying services, subpoena services, ergonomic vendors, etc. Contractor shall ensure such firms provide quality services at competitive prices. Contractor shall disclose any business interest, direct or indirect, in the panel firms. The panels shall be submitted to the CCA at the inception of the Contract. Contractor shall immediately notify the CCA of any additions to the panels. At the CCA's request, Contractor shall immediately remove any firm from the panels. The County retains the right to contract for services addressed in this paragraph.

Outside peripheral services shall be employed only when necessary and only with the Claims Supervisor's authorization. Documentation of assignment shall include specific reasons for referral and direction provided for peripheral service provider's activities. Contractor shall copy the designated County representative on all referrals.

11.0 GREEN INITIATIVES

- 11.1 Contractor shall use reasonable efforts to initiate "green" practices for environmental and energy conservation benefits.
- 11.2 Contractor shall notify County's Project Manager of Contractor's new green initiatives prior to the contract commencement.

12.0 PERFORMANCE REQUIREMENTS SUMMARY

This Performance Requirements Summary (PRS) Chart (Technical Exhibit 5) lists the required services which will be monitored by County during the term of this Contract; the required standard of performance; the maximum deviation from the Acceptable Quality Level Standards (AQLS) which can occur before damages can be assessed; the method of COUNTY surveillance; and the liquidated damages for not meeting the AQLS.

12.1 Quality Assurance

On an on-going basis, Contractor performance will be compared to the contract standards. The County may use a variety of inspection methods to evaluate Contractor's performance. The methods of surveillance, which may be used include, but are not limited to, the following:

- User and/or Staff Complaints
- Random Inspections
- Random and/or Judgmental Samplings
- Information from Contractor Reports

12.2 Criteria for Acceptance and Unacceptable Performance

Performance of a required service is considered acceptable when it meets the AQLS as set forth in Technical Exhibit 5. When the performance does not meet this standard, Contractor will be notified promptly of any performance variances identified.

When an instance of unacceptable performance comes to the attention of County personnel, a Contract Discrepancy Report (Technical Exhibit 6) may be completed and forwarded to the County Contract Administrator. The complaint will be investigated, if necessary, and may be brought to the attention of Contractor.

Contractor shall be required to explain, in writing, within ten (10) calendar days of date of notice when performance was unacceptable, how performance will be returned to acceptable levels, and how recurrence of the problem will be prevented. Contractor will pay County for liquidated damages as provided herein.

The assessment of monetary damages against Contractor for unacceptable services shall be calculated as shown on the PRS Chart (Technical Exhibit 5).

12.3 Liquidated Damages

Periodically, Contractor's performance will be evaluated comparing service with the AQLS, using the method of surveillance. If Contractor's performance falls below the AQLS, liquidated damages shall be paid by Contractor as set forth in the PRS Chart (Technical Exhibit 5). Contractor will be notified promptly of any performance variance identified.

12.4 Corrective Action

Contractor shall be required to immediately correct those activities found by the County to be unacceptably performed at no additional cost to County.

13.0 PAYMENT AND ADJUSTMENTS TO PAYMENT

13.1 Payment

13.1.1 Base Monthly

The County shall pay the Contractor on a fee basis as set forth in the Payment Schedule. Payment for assumption and administration of all take-over claims is included in this fee. The County will not make and Contractor is not entitled to

any additional payment for the assumption or administration of any take-over claim.

13.2 Adjustment to Payment

The Contractor shall invoice the County monthly in arrears for fees due for the billing period. The invoices shall clearly reflect and provide reasonable detail as determined by the County of the services provided.

The County will adjust the invoice as follows and pay the invoice within 60 days of receipt.

- 13.2.1 The County shall adjust the monthly invoice fee based upon compliance with proposed staffing per analysis of loss experience reports and performance audits. The adjustment will be made to the monthly payment of the annual contract, per Subparagraph 13.2.2.

The Contractor shall reimburse the County for any overpayment, fine, penalty, or other cost incurred due to the Contractor's failure to comply with State of California WC statutes, codes, regulations, or any term or condition of the Contract. Such failures include the following:

- 13.2.1.1 Late payment or nonpayment of any benefit to any applicant or medical provider resulting in penalty or attorney fees.
- 13.2.1.2 Overpayment of any benefit owed to any applicant, any lien claimant, or other party in a claim due to Contractor's error.

No reimbursement by the Contractor is required under this section if Contractor's act(s) and/or omission(s) occurred during the first four (4) months of the contract term.

- 13.2.2 The County may increase or reduce the annual flat contract fee pursuant to the performance incentives related to annual claims administration performance audit. At the County's sole discretion, mutually beneficial performance and financial incentives shall be applied as follows:

Annual Audit Performance Score < 75%	Base Fee Less 4.5%
Annual Audit Performance Score ≥ 75% but <80%	Base Fee Less 1.5%
Annual Audit Performance Score ≥80% but <85%	100% of Base Fee
Annual Audit Performance Score ≥85% but <90%	Base Fee Plus 1.5%
Annual Audit Performance Score ≥90% but <95%	Base Fee Plus 3.0%
Annual Audit Performance Score ≥95%	Base Fee Plus 4.5%
Subrogation recoveries during contract year exceeds subrogation recoveries during prior year	Base Fee Plus .5%, subject to a maximum of 50% of the increased recovery dollars.
Examiner staffing levels do not meet requirements of Subparagraph 6.4 of this SOW	\$7,000 reduction for each aggregate thirty (30) calendar days a position is vacant.
Litigation files are not prepared and sent to County Counsel within 45 days of receipt of application or notice of representation	\$1,000 reduction for each late litigation file

The performance score (%) shall be determined by random-sample audits performed as directed by the County for compliance with standards described in Technical Exhibit 4 (Quality Assurance Monitoring Plan) and Technical Exhibit 5 (Quality of Work Performance Requirements Summary – Audit Criteria). The CCA may update the areas to be audited and the factors to be considered in determining the performance score, providing notice to the Contractor. Initial performance audit for application of incentives shall focus on performance from six (6) months post contract onset through first contract anniversary. Thereafter, audits shall focus on annual performance periods.

13.2.3 The County shall give notice to the Contractor of any assessment or adjustments to payments planned detailing the determination methodology. The Contractor shall have sixty (60) days to respond in writing to the notice. The response shall include but not be limited to:

13.2.3.1 Evidence that the penalty was not incurred or an overpayment or excessive cost was not made.

13.2.3.2 Evidence that the Contractor's act(s) and/or omissions(s) did not cause the penalty, overpayment, or excess cost.

13.2.4 Second level dispute resolution process

13.2.4.1 If after the Contractor's response to the County's notice of assessment of adjustment to payments, the County and Contractor are in disagreement, a second level dispute resolution process will be conducted. The CCA or his/her appointed designee and the appropriate Contractor designee shall review the evidence and resolve the dispute. Second level dispute resolution process shall be completed within sixty (60) calendar days.

13.2.4.2 At the end of the second-level dispute resolution process, the County shall be entitled to reduce the Contractor's monthly invoices for assessments of adjustments to payments.

13.2.5 Any increase or decrease calculated based on the performance score shall use the Base Fee at the time audited work was performed by the Contractor. Payment may be made in a lump sum within 60 days after the County submits the final audit results, or by equal monthly installments over a one year-period commencing within the same 60-day period.

13.2.6 Fee Reduction for Withdraws of Los Angeles County Superior Court (Superior Court)

If the Superior Court withdraws from the account, the County and the Contractor agree the annual fee shall be reduced commensurate with the reduction in Contractor's direct costs. The reduction in annual fee shall become effective upon termination of the Contractor's obligation to administer the Superior Court claims, and shall be in effect for the remainder of the Contract.

14.0 ADJUSTMENT TO PAYMENTS FOLLOWING AUDIT

14.1 If, at any time during the term of the Contract or within five years after the expiration or termination of the Contract, authorized representatives of the County conduct an audit of the Contractor regarding the services provided to the County hereunder and if as a result of such audit it is determined that the County's dollar liability

for such services is less than payments made by the County to the Contractor, then the Contractor agrees that the difference, at the CCA's option, shall be either: (1) repaid forthwith by the Contractor to the County by cash payment, or (2) credited against any future payments hereunder to the Contractor.

- 14.2 If as a result of such audit it is determined that the County's dollar liability for services provided hereunder is more than payments made by the County to the Contractor, then the difference shall be paid to the Contractor by the County provided that in no event shall the County's maximum obligation exceed the amount appropriated by the Board of Supervisors.

EXHIBIT B

PRICING SCHEDULE

TRISTAR RISK MANAGEMENT (UNIT 3)

PRICING CRITERIA	PRICE
Flat Annual Fee – Contract Year 1 January 1, 2016 – December 31, 2016	\$8,500,000
Flat Annual Fee – Contract Year 2 January 1, 2017 – December 31, 2017	\$8,500,000
Flat Annual Fee – Contract Year 3 January 1, 2018 – December 31, 2018	\$8,500,000
MAXIMUM TOTAL BASE CONTRACT PRICE	\$25,500,000

INTENTIONALLY OMITTED

CONTRACTOR'S EEO CERTIFICATION

Contractor Name

Address

Internal Revenue Service Employer Identification Number

GENERAL CERTIFICATION

In accordance with Section 4.32.010 of the Code of the County of Los Angeles, the contractor, supplier, or vendor certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.

CONTRACTOR'S SPECIFIC CERTIFICATIONS

- 1. The Contractor has a written policy statement prohibiting discrimination in all phases of employment. Yes No
- 2. The Contractor periodically conducts a self analysis or utilization analysis of its work force. Yes No
- 3. The Contractor has a system for determining if its employment practices are discriminatory against protected groups. Yes No
- 4. Where problem areas are identified in employment practices, the Contractor has a system for taking reasonable corrective action, to include establishment of goals or timetables. Yes No

Authorized Official's Printed Name and Title

Authorized Official's Signature

Date

CONTRACTOR'S ADMINISTRATION
COUNTY'S ADMINISTRATION

CONTRACT NO. _____

COUNTY RISK MANAGER:

Name: Steven T. Robles
Title: Assistant Chief Executive Officer
Address: 3333 Wilshire Boulevard, Ste. 820, Los Angeles, CA 90010
Telephone: (213) 351-5346
Facsimile: (213) 252-0405
E-Mail Address: srobles@ceo.lacounty.gov

COUNTY CONTRACT ADMINISTRATOR:

Name: Alex Rossi
Title: Manager, CEO
Address: 3333 Wilshire Boulevard, Ste. 820, Los Angeles, CA 90010
Telephone: (213) 738-2154
Facsimile: (213) 252-0405
E-Mail Address: arossi@ceo.lacounty.gov

COUNTY PROJECT MANAGER:

Name: Anthony Taras
Title: Chief Program Specialist
Address: 3333 Wilshire Boulevard, Ste. 820, Los Angeles, CA 90010
Telephone: (213) 351-6405
Facsimile: (213) 252-0405
E-Mail Address: ataras@ceo.lacounty.gov

COUNTY CONTRACT MONITOR/ONSITE COUNTY REPRESENTATIVE:

Name: Joe Carrillo
Title: Program Specialist IV
Address: 3333 Wilshire Boulevard, Ste. 820, Los Angeles, CA 90010
Telephone: (213) 351-5479
Facsimile: (213) 252-0405
E-Mail Address: jcarrillo@ceo.lacounty.gov

CONTRACTOR'S ADMINISTRATION

CONTRACTOR'S NAME: TRISTAR Risk Management

CONTRACT NO: _____

CONTRACTOR'S PROJECT MANAGER:

Name: _____
Title: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail Address: _____

CONTRACTOR'S AUTHORIZED OFFICIAL(S)

Name: _____
Title: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail Address: _____

Name: _____
Title: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail Address: _____

Notices to Contractor shall be sent to the following:

Name: _____
Title: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail Address: _____

CONTRACTOR ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT

FORMS REQUIRED AT THE TIME OF CONTRACT EXECUTION

- G1 CONTRACTOR EMPLOYEE ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT
- G2 CONTRACTOR NON-EMPLOYEE ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT

CONTRACTOR ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT

CONTRACTOR NAME _____ Contract No. _____

GENERAL INFORMATION:

The Contractor referenced above has entered into a contract with the County of Los Angeles to provide certain services to the County. The County requires the Corporation to sign this Contractor Acknowledgement and Confidentiality Agreement.

CONTRACTOR ACKNOWLEDGEMENT:

Contractor understands and agrees that the Contractor employees, consultants, Outsourced Vendors and independent contractors (Contractor's Staff) that will provide services in the above referenced agreement are Contractor's sole responsibility. Contractor understands and agrees that Contractor's Staff must rely exclusively upon Contractor for payment of salary and any and all other benefits payable by virtue of Contractor's Staff's performance of work under the above-referenced contract.

Contractor understands and agrees that Contractor's Staff are not employees of the County of Los Angeles for any purpose whatsoever and that Contractor's Staff do not have and will not acquire any rights or benefits of any kind from the County of Los Angeles by virtue of my performance of work under the above-referenced contract. Contractor understands and agrees that Contractor's Staff will not acquire any rights or benefits from the County of Los Angeles pursuant to any agreement between any person or entity and the County of Los Angeles.

CONFIDENTIALITY AGREEMENT:

Contractor and Contractor's Staff may be involved with work pertaining to services provided by the County of Los Angeles and, if so, Contractor and Contractor's Staff may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, Contractor and Contractor's Staff may also have access to proprietary information supplied by other vendors doing business with the County of Los Angeles. The County has a legal obligation to protect all such confidential data and information in its possession, especially data and information concerning health, criminal, and welfare recipient records. Contractor and Contractor's Staff understand that if they are involved in County work, the County must ensure that Contractor and Contractor's Staff, will protect the confidentiality of such data and information. Consequently, Contractor must sign this Confidentiality Agreement as a condition of work to be provided by Contractor's Staff for the County.

Contractor and Contractor's Staff hereby agrees that they will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced contract between Contractor and the County of Los Angeles. Contractor and Contractor's Staff agree to forward all requests for the release of any data or information received to County's Project Manager.

Contractor and Contractor's Staff agree to keep confidential all health, criminal, and welfare recipient records and all data and information pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, Contractor proprietary information and all other original materials produced, created, or provided to Contractor and Contractor's Staff under the above-referenced contract. Contractor and Contractor's Staff agree to protect these confidential materials against disclosure to other than Contractor or County employees who have a need to know the information. Contractor and Contractor's Staff agree that if proprietary information supplied by other County vendors is provided to me during this employment, Contractor and Contractor's Staff shall keep such information confidential.

Contractor and Contractor's Staff agree to report any and all violations of this agreement by Contractor and Contractor's Staff and/or by any other person of whom Contractor and Contractor's Staff become aware.

Contractor and Contractor's Staff acknowledge that violation of this agreement may subject Contractor and Contractor's Staff to civil and/or criminal action and that the County of Los Angeles may seek all possible legal redress.

SIGNATURE: _____

DATE: ____/____/____

PRINTED NAME: _____

POSITION: _____

CONTRACTOR EMPLOYEE ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT

(Note: This certification is to be executed and returned to County with Contractor's executed Contract. Work cannot begin on the Contract until County receives this executed document.)

Contractor Name _____ Contract No. _____

Employee Name _____

GENERAL INFORMATION:

Your employer referenced above has entered into a contract with the County of Los Angeles to provide certain services to the County. The County requires your signature on this Contractor Employee Acknowledgement and Confidentiality Agreement.

EMPLOYEE ACKNOWLEDGEMENT:

I understand and agree that the Contractor referenced above is my sole employer for purposes of the above-referenced contract. I understand and agree that I must rely exclusively upon my employer for payment of salary and any and all other benefits payable to me or on my behalf by virtue of my performance of work under the above-referenced contract.

I understand and agree that I am not an employee of the County of Los Angeles for any purpose whatsoever and that I do not have and will not acquire any rights or benefits of any kind from the County of Los Angeles by virtue of my performance of work under the above-referenced contract. I understand and agree that I do not have and will not acquire any rights or benefits from the County of Los Angeles pursuant to any agreement between any person or entity and the County of Los Angeles.

I understand and agree that I may be required to undergo a background and security investigation(s). I understand and agree that my continued performance of work under the above-referenced contract is contingent upon my passing, to the satisfaction of the County, any and all such investigations. I understand and agree that my failure to pass, to the satisfaction of the County, any such investigation shall result in my immediate release from performance under this and/or any future contract.

CONFIDENTIALITY AGREEMENT:

I may be involved with work pertaining to services provided by the County of Los Angeles and, if so, I may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, I may also have access to proprietary information supplied by other vendors doing business with the County of Los Angeles. The County has a legal obligation to protect all such confidential data and information in its possession, especially data and information concerning health, criminal, and welfare recipient records. I understand that if I am involved in County work, the County must ensure that I, too, will protect the confidentiality of such data and information. Consequently, I understand that I must sign this agreement as a condition of my work to be provided by my employer for the County. I have read this agreement and have taken due time to consider it prior to signing.

I hereby agree that I will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced contract between my employer and the County of Los Angeles. I agree to forward all requests for the release of any data or information received by me to my immediate supervisor.

I agree to keep confidential all health, criminal, and welfare recipient records and all data and information pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, Contractor proprietary information and all other original materials produced, created, or provided to or by me under the above-referenced contract. I agree to protect these confidential materials against disclosure to other than my employer or County employees who have a need to know the information. I agree that if proprietary information supplied by other County vendors is provided to me during this employment, I shall keep such information confidential.

I agree to report to my immediate supervisor any and all violations of this agreement by myself and/or by any other person of whom I become aware. I agree to return all confidential materials to my immediate supervisor upon completion of this contract or termination of my employment with my employer, whichever occurs first.

SIGNATURE: _____

DATE: ____/____/____

PRINTED NAME: _____

POSITION: _____

Title 2 ADMINISTRATION
Chapter 2.203.010 through 2.203.090
CONTRACTOR EMPLOYEE JURY SERVICE

2.203.010 Findings.

The board of supervisors makes the following findings. The county of Los Angeles allows its permanent, full-time employees unlimited jury service at their regular pay. Unfortunately, many businesses do not offer or are reducing or even eliminating compensation to employees who serve on juries. This creates a potential financial hardship for employees who do not receive their pay when called to jury service, and those employees often seek to be excused from having to serve. Although changes in the court rules make it more difficult to excuse a potential juror on grounds of financial hardship, potential jurors continue to be excused on this basis, especially from longer trials. This reduces the number of potential jurors and increases the burden on those employers, such as the county of Los Angeles, who pay their permanent, full-time employees while on juror duty. For these reasons, the county of Los Angeles has determined that it is appropriate to require that the businesses with which the county contracts possess reasonable jury service policies. (Ord. 2002-0015 § 1 (part), 2002)

2.203.020 Definitions.

The following definitions shall be applicable to this chapter:

- A. "Contractor" means a person, partnership, corporation or other entity which has a contract with the county or a subcontract with a county contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more such contracts or subcontracts.
- B. "Employee" means any California resident who is a full-time employee of a contractor under the laws of California.
- C. "Contract" means any agreement to provide goods to, or perform services for or on behalf of, the county but does not include:
 - 1. A contract where the board finds that special circumstances exist that justify a waiver of the requirements of this chapter; or
 - 2. A contract where federal or state law or a condition of a federal or state program mandates the use of a particular contractor; or
 - 3. A purchase made through a state or federal contract; or
 - 4. A monopoly purchase that is exclusive and proprietary to a specific manufacturer, distributor, or reseller, and must match and inter-member with existing supplies, equipment or systems maintained by the county pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-3700 or a successor provision; or
 - 5. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.4.0 or a successor provision; or
 - 6. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-2810 or a successor provision; or
 - 7. A non-agreement purchase with a value of less than \$5,000 pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section A-0300 or a successor provision; or
 - 8. A bona fide emergency purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section PP-1100 or a successor provision.

Title 2 ADMINISTRATION
Chapter 2.203.010 through 2.203.090
CONTRACTOR EMPLOYEE JURY SERVICE

- D. "Full time" means 40 hours or more worked per week, or a lesser number of hours if:
1. The lesser number is a recognized industry standard as determined by the chief administrative officer, or
 2. The contractor has a long-standing practice that defines the lesser number of hours as full time.
- E. "County" means the county of Los Angeles or any public entities for which the board of supervisors is the governing body. (Ord. 2002-0040 § 1, 2002: Ord. 2002-0015 § 1 (part), 2002)

2.203.030 Applicability.

This chapter shall apply to contractors who enter into contracts that commence after July 11, 2002. This chapter shall also apply to contractors with existing contracts which are extended into option years that commence after July 11, 2002. Contracts that commence after May 28, 2002, but before July 11, 2002, shall be subject to the provisions of this chapter only if the solicitations for such contracts stated that the chapter would be applicable. (Ord. 2002-0040 § 2, 2002: Ord. 2002-0015 § 1 (part), 2002)

2.203.040 Contractor Jury Service Policy.

A contractor shall have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees' regular pay the fees received for jury service. (Ord. 2002-0015 § 1 (part), 2002)

2.203.050 Other Provisions.

- A. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter and shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.
- B. Compliance Certification. At the time of seeking a contract, a contractor shall certify to the county that it has and adheres to a policy consistent with this chapter or will have and adhere to such a policy prior to award of the contract. (Ord. 2002-0015 § 1 (part), 2002)

2.203.060 Enforcement and Remedies.

For a contractor's violation of any provision of this chapter, the county department head responsible for administering the contract may do one or more of the following:

1. Recommend to the board of supervisors the termination of the contract; and/or,
2. Pursuant to chapter 2.202, seek the debarment of the contractor. (Ord. 2002-0015 § 1 (part), 2002)

Title 2 ADMINISTRATION
Chapter 2.203.010 through 2.203.090
CONTRACTOR EMPLOYEE JURY SERVICE

2.203.070. Exceptions.

- A. Other Laws. This chapter shall not be interpreted or applied to any contractor or to any employee in a manner inconsistent with the laws of the United States or California.
- B. Collective Bargaining Agreements. This chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. Small Business. This chapter shall not be applied to any contractor that meets all of the following:
 - 1. Has ten or fewer employees during the contract period; and,
 - 2. Has annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, are less than \$500,000; and,
 - 3. Is not an affiliate or subsidiary of a business dominant in its field of operation.

“Dominant in its field of operation” means having more than ten employees and annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, exceed \$500,000.

“Affiliate or subsidiary of a business dominant in its field of operation” means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord. 2002-0015 § 1 (part), 2002)

2.203.090. Severability.

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. 2002-0015 § 1 (part), 2002)

SAFELY SURRENDERED BABY LAW

Safely Surrendered



No shame. No blame. No names.

In Los Angeles County: 1-877-BABY SAFE • 1-877-222-9723

www.babysafela.org



Safely Surrendered Baby Law

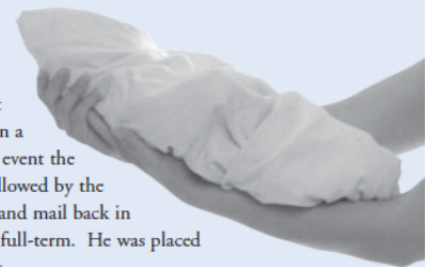
What is the Safely Surrendered Baby Law?

California's Safely Surrendered Baby Law allows parents or other persons, with lawful custody, which means anyone to whom the parent has given permission to confidentially surrender a baby. As long as the baby is three days (72 hours) of age or younger and has not been abused or neglected, the baby may be surrendered without fear of arrest or prosecution.

Every baby deserves a chance for a healthy life. If someone you know is considering abandoning a baby, let her know there are other options. For three days (72 hours) after birth, a baby can be surrendered to staff at any hospital or fire station in Los Angeles County.

A baby's story

Early in the morning on April 9, 2005, a healthy baby boy was safely surrendered to nurses at Harbor-UCLA Medical Center. The woman who brought the baby to the hospital identified herself as the baby's aunt and stated the baby's mother had asked her to bring the baby to the hospital on her behalf. The aunt was given a bracelet with a number matching the anklet placed on the baby; this would provide some identification in the event the mother changed her mind about surrendering the baby and wished to reclaim the baby in the 14-day period allowed by the Law. The aunt was also provided with a medical questionnaire and said she would have the mother complete and mail back in the stamped return envelope provided. The baby was examined by medical staff and pronounced healthy and full-term. He was placed with a loving family that had been approved to adopt him by the Department of Children and Family Services.



How does it work?

A distressed parent who is unable or unwilling to care for a baby can legally, confidentially, and safely surrender a baby within three days (72 hours) of birth. The baby must be handed to an employee at a hospital or fire station in Los Angeles County. As long as the baby shows no sign of abuse or neglect, no name or other information is required. In case the parent changes his or her mind at a later date and wants the baby back, staff will use bracelets to help connect them to each other. One bracelet will be placed on the baby, and a matching bracelet will be given to the parent or other surrendering adult.

What if a parent wants the baby back?

Parents who change their minds can begin the process of reclaiming their baby within 14 days. These parents should call the Los Angeles County Department of Children and Family Services at 1-800-540-4000.

Can only a parent bring in the baby?

No. While in most cases a parent will bring in the baby, the Law allows other people to bring in the baby if they have lawful custody.

Does the parent or surrendering adult have to call before bringing in the baby?

No. A parent or surrendering adult can bring in a baby anytime, 24 hours a day, 7 days a week, as long as the parent or surrendering adult surrenders the baby to someone who works at the hospital or fire station.

Does the parent or surrendering adult have to tell anything to the people taking the baby?

No. However, hospital or fire station personnel will ask the surrendering party to fill out a questionnaire designed to gather important medical history information, which is very useful in caring for the baby. The questionnaire includes a stamped return envelope and can be sent in at a later time.

What happens to the baby?

The baby will be examined and given medical treatment. Upon release from the hospital, social workers immediately place the baby in a safe and loving home and begin the adoption process.

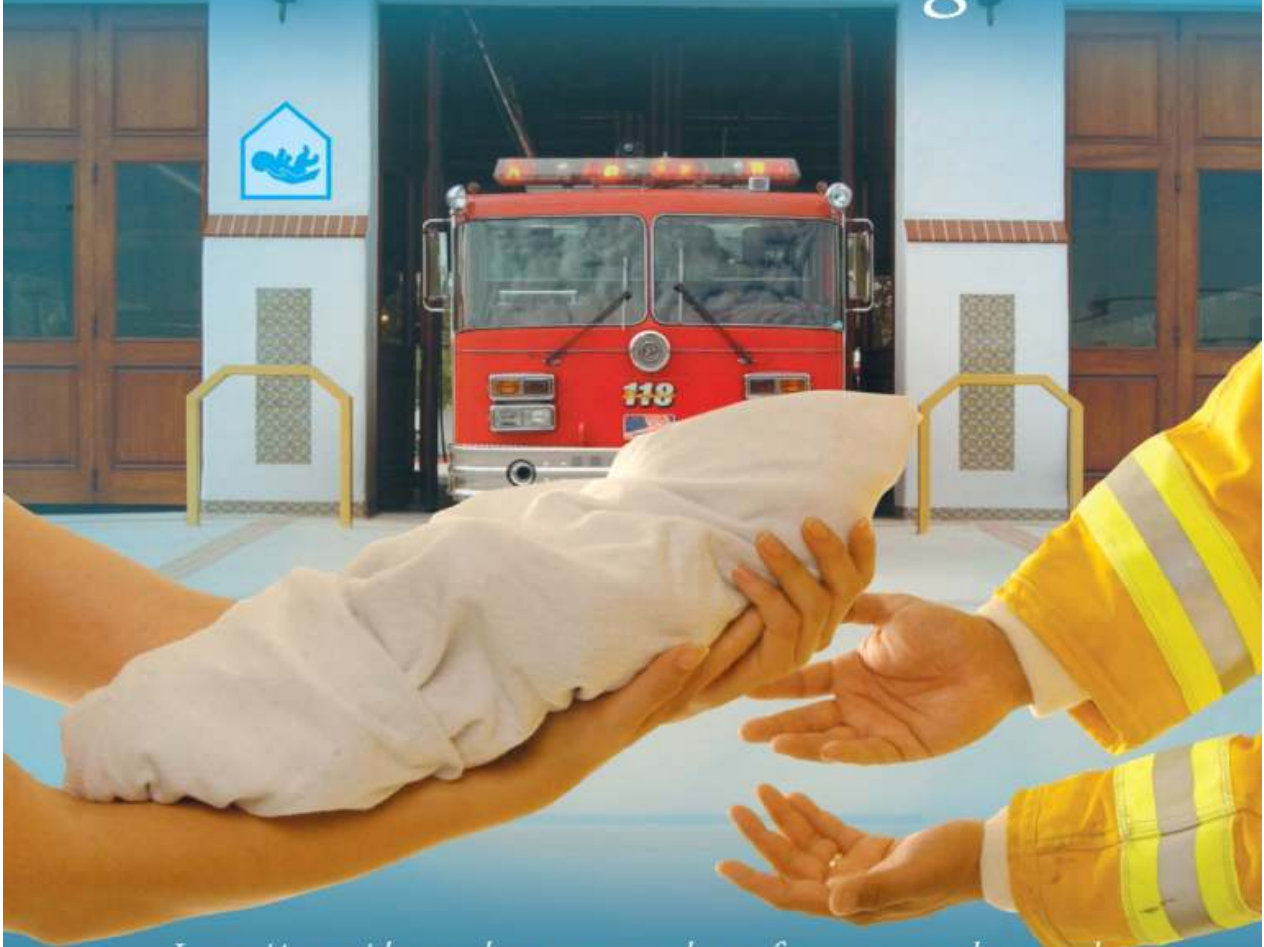
What happens to the parent or surrendering adult?

Once the parent or surrendering adult surrenders the baby to hospital or fire station personnel, they may leave at any time.

Why is California doing this?

The purpose of the Safely Surrendered Baby Law is to protect babies from being abandoned, hurt or killed by their parents. You may have heard tragic stories of babies left in dumpsters or public bathrooms. Their parents may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had no one or nowhere to turn for help, they abandoned their babies. Abandoning a baby is illegal and places the baby in extreme danger. Too often, it results in the baby's death. The Safely Surrendered Baby Law prevents this tragedy from ever happening again in California.

Ley de Entrega de Bebés *Sin Peligro*



Los recién nacidos pueden ser entregados en forma segura al personal de cualquier hospital o cuartel de bomberos del Condado de Los Ángeles

Sin pena. Sin culpa. Sin nombres.

En el Condado de Los Ángeles: 1-877-BABY SAFE • 1-877-222-9723

www.babysafela.org



Ley de Entrega de Bebés Sin Peligro

¿Qué es la Ley de Entrega de Bebés sin Peligro?

La Ley de Entrega de Bebés sin Peligro de California permite la entrega confidencial de un recién nacido por parte de sus padres u otras personas con custodia legal, es decir cualquier persona a quien los padres le hayan dado permiso. Siempre que el bebé tenga tres días (72 horas) de vida o menos, y no haya sufrido abuso ni negligencia, pueden entregar al recién nacido sin temor de ser arrestados o procesados.

Cada recién nacido se merece la oportunidad de tener una vida saludable. Si alguien que usted conoce está pensando en abandonar a un recién nacido, infórmele que tiene otras opciones. Hasta tres días (72 horas) después del nacimiento, se puede entregar un recién nacido al personal de cualquier hospital o cuartel de bomberos del condado de Los Angeles.

¿Cómo funciona?

El padre/madre con dificultades que no pueda o no quiera cuidar de su recién nacido puede entregarlo en forma legal, confidencial y segura dentro de los tres días (72 horas) del nacimiento. El bebé debe ser entregado a un empleado de cualquier hospital o cuartel de bomberos del Condado de Los Ángeles. Siempre que el bebé no presente signos de abuso o negligencia, no será necesario suministrar nombres ni información alguna. Si el padre/madre cambia de opinión posteriormente y desea recuperar a su bebé, los trabajadores utilizarán brazaletes para poder vincularlos. El bebé llevará un brazaletes y el padre/madre o el adulto que lo entregue recibirá un brazaletes igual.

¿Qué pasa si el padre/madre desea recuperar a su bebé?

Los padres que cambien de opinión pueden comenzar el proceso de reclamar a su recién nacido dentro de los 14 días. Estos padres deberán llamar al Departamento de Servicios para Niños y Familias (Department of Children and Family Services) del Condado de Los Ángeles al 1-800-540-4000.

¿Sólo los padres podrán llevar al recién nacido?

No. Si bien en la mayoría de los casos son los padres los que llevan al bebé, la ley permite que otras personas lo hagan si tienen custodia legal.

¿Los padres o el adulto que entrega al bebé deben llamar antes de llevar al bebé?

No. El padre/madre o adulto puede llevar al bebé en cualquier momento, las 24 horas del día, los 7 días de la semana, siempre y cuando entreguen a su bebé a un empleado del hospital o cuartel de bomberos.

¿Es necesario que el padre/madre o adulto diga algo a las personas que reciben al bebé?

No. Sin embargo, el personal del hospital o cuartel de bomberos le pedirá a la persona que entregue al bebé que llene un cuestionario con la finalidad de recabar antecedentes médicos importantes, que resultan de gran utilidad para cuidar bien del bebé. El cuestionario incluye un sobre con el sello postal pagado para enviarlo en otro momento.

¿Qué pasará con el bebé?

El bebé será examinado y le brindarán atención médica. Cuando le den el alta del hospital, los trabajadores sociales inmediatamente ubicarán al bebé en un hogar seguro donde estará bien atendido, y se comenzará el proceso de adopción.

¿Qué pasará con el padre/madre o adulto que entregue al bebé?

Una vez que los padres o adulto hayan entregado al bebé al personal del hospital o cuartel de bomberos, pueden irse en cualquier momento.

¿Por qué se está haciendo esto en California? ?

La finalidad de la Ley de Entrega de Bebés sin Peligro es proteger a los bebés para que no sean abandonados, lastimados o muertos por sus padres. Usted probablemente haya escuchado historias trágicas sobre bebés abandonados en basureros o en baños públicos. Los padres de esos bebés probablemente hayan estado pasando por dificultades emocionales graves. Las madres pueden haber ocultado su embarazo, por temor a lo que pasaría si sus familias se enteraran. Abandonaron a sus bebés porque tenían miedo y no tenían nadie a quien pedir ayuda. El abandono de un recién nacido es ilegal y pone al bebé en una situación de peligro extremo. Muy a menudo el abandono provoca la muerte del bebé. La Ley de Entrega de Bebés sin Peligro impide que vuelva a suceder esta tragedia en California.

Historia de un bebé

A la mañana temprano del día 9 de abril de 2005, se entregó un recién nacido saludable a las enfermeras del Harbor-UCLA Medical Center. La mujer que llevó el recién nacido al hospital se dio a conocer como la tía del bebé, y dijo que la madre le había pedido que llevara al bebé al hospital en su nombre. Le entregaron a la tía un brazaletes con un número que coincidía con la pulsera del bebé; esto serviría como identificación en caso de que la madre cambiara de opinión con respecto a la entrega del bebé y decidiera recuperarlo dentro del período de 14 días que permite esta ley. También le dieron a la tía un cuestionario médico, y ella dijo que la madre lo llenaría y lo enviaría de vuelta dentro del sobre con franqueo pagado que le habían dado. El personal médico examinó al bebé y se determinó que estaba saludable y a término. El bebé fue ubicado con una buena familia que ya había sido aprobada para adoptarlo por el Departamento de Servicios para Niños y Familias.



Sections:

2.201.010 - Findings.

2.201.020 - Definitions.

2.201.030 - Prospective effect.

2.201.040 - Payment of living wage.

2.201.050 - Other provisions.

2.201.060 - Employer retaliation prohibited.

2.201.070 - Employee retention rights.

2.201.080 - Enforcement and remedies.

2.201.090 - Exceptions.

2.201.100 - Severability.

2.201.010 - Findings.

The board of supervisors finds that the county of Los Angeles is the principal provider of social and health services within the county, especially to persons who are compelled to turn to the county for such services. Employers' failure to pay a living wage to their employees causes them to use such services thereby placing an additional burden on the county of Los Angeles.

(Ord. 2007-0011 § 1, 2007; Ord. 99-0048 § 1 (part), 1999.)

2.201.020 - Definitions.

The general definitions contained in Chapter 2.02 shall be applicable to this chapter unless inconsistent with the following definitions:

- A. "County" includes the county of Los Angeles, any county officer or body, any county department head, and any county employee authorized to enter into a Proposition A contract or a cafeteria services contract with an employer.
- B. "Employee" means any individual who is an employee of an employer under the laws of California, and who is providing full time services to an employer, some or all of which are provided to the county of Los Angeles under a Proposition A contract, or under a cafeteria services contract at a county of Los Angeles owned or leased facility.
- C. "Employer" means:
 - 1. An individual or entity that has a contract with the county:
 - a. For services which is required to be more economical or feasible under Section 44.7 of the Charter of the county of Los Angeles, and is not listed as an excluded contract in Section 2.121.250 B of the Los Angeles County Code, referred to in this chapter as a "Proposition A contract," or
 - b. For cafeteria services, referred to in this chapter as a "cafeteria services contract," and

- c. Who has received or will receive an aggregate sum of \$25,000.00 or more in any 12 month period under one or more Proposition A contracts and/or one or more cafeteria services contracts; or
- 2. An individual or entity that enters into a subcontract with an employer, as defined in subsection C1 and who employs employees to provide services under the employer's contract with the county.
- D. "Full time" means a minimum 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the chief administrative officer, but in no event less than 35 hours worked per week.
- E. "Proposition A contract" means a contract governed by Title 2, Section 2.121.250 et seq. of this code, entitled Contracting with Private Business.
(Ord. 2007-0011 §2, 2007; Ord. 99-0048 § 1 (part), 1999.)

2.201.030 - Prospective effect.

This chapter shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments the terms of which commence three months or more after the effective date of this chapter. ^[152] It shall not be applicable to Proposition A contracts or cafeteria services contracts or their amendments in effect before this chapter becomes applicable.

(Ord. 99-0048 § 1 (part), 1999.)

2.201.040 - Payment of living wage.

- A. Employers shall pay employees a living wage for their services provided to the county of no less than the hourly rates set under this chapter. The rates shall be \$9.64 per hour with health benefits, or \$11.84 per hour without health benefits.
- B. To qualify for the living wage rate with health benefits, an employer shall pay at least \$2.20 per hour towards the provision of bona fide health care benefits for each employee and any dependents during the term of a Proposition A contract or a cafeteria services contract. Proof of the provision of such benefits must be submitted to the county for evaluation during the procurement process to qualify for the lower living wage rate in subsection A of this section. Employers who provide health care benefits to employees through the county department of health services community health plan are deemed to have qualified for the lower living wage rate in subsection A of this section.
- C. The board of supervisors may, from time to time, adjust the amounts specified in subsections A and B of this section, above for future contracts. Any adjustments to the living wage rate specified in subsections A and B that are adopted by the board of supervisors shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments which become effective three months or more after the effective date of the ordinance that adjusts the living wage rate.

(Ord. 2007-0011 § 3, 2007; Ord. 99-0048 § 1 (part), 1999.)

2.201.050 - Other provisions.

- A. Full Time Employees. An employer shall assign and use full time employees to provide services under a Proposition A contract or a cafeteria services contract, unless the employer can demonstrate to the county the necessity to use non-full time employees based on staffing efficiency or the county requirements of an individual job.
- B. Neutrality in Labor Relations. An employer shall not use any consideration received under a Proposition A contract or a cafeteria services contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of an employer's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.
- C. Administration. The Chief Executive Officer and the Internal Services Department shall be responsible for the administration of this chapter. The Chief Executive Officer and the Internal Services Department may, with the advice of county counsel, issue interpretations of the provisions of this chapter. The Chief Executive Officer in conjunction with the Internal Services Department shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.
- D. Compliance Certification. An employer shall, during the term of a Proposition A contract, or a cafeteria services contract, report for each employee and certify the hours worked, wages paid, and amounts the employer paid for health benefits, and provide other information deemed relevant to the enforcement of this chapter by the county. Such reports shall be made at the times and in the manner set forth in instructions issued by the Chief Executive Officer in conjunction with the Internal Services Department. The Internal Services Department in conjunction with the Chief Executive Officer shall report annually to the board of supervisors on contractor compliance with the provisions of this chapter.
- E. Contractor Standards. An employer shall demonstrate during the procurement process and for the duration of a Proposition A contract or a cafeteria services contract a history of business stability, integrity in employee relations, and the financial ability to pay a living wage. *(Ord. 2011-0066 § 3, 2011: Ord. 99-0048 § 1 (part), 1999.)*

2.201.060 - Employer retaliation prohibited.

No employer shall take an adverse action causing a loss of any benefit of employment, of any contract benefit, or any statutory benefit to any employee, person, or other entity, who has reported a violation of this chapter to the board of supervisors or to one or more of their offices, to the county chief administrative officer, or to the county auditor controller, or to the county department administering the Proposition A contract or cafeteria services contract. *(Ord. 99-0048 § 1 (part), 1999.)*

2.201.070 - Employee retention rights.

In the event that any Proposition A contract or cafeteria service contract is terminated by the county prior to its expiration, any new contract with a subsequent employer for such services shall provide for the employment of the predecessor employer's employees as provided in this section.

- A. A "retention employee" is an employee of a predecessor employer:
 - 1. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act;
 - 2. Who has been employed by an employer under a predecessor Proposition A contract or a predecessor cafeteria services contract for at least six months prior to the date of a new contract; and
 - 3. Who is or will be terminated from his or her employment as a result of the county entering into a new contract.
- B. Subsequent employers shall offer employment to all retention employees who are qualified for such jobs.
- C. A subsequent employer is not required to hire a retention employee who:
 - 1. Has been convicted of a crime related to the job or his or her job performance; or
 - 2. Fails to meet any other county requirement for employees of a contractor.
- D. A subsequent employer may not terminate a retention employee for the first 90 days of employment under a new contract, except for cause. Thereafter a subsequent employer may retain a retention employee on the same terms and conditions as the subsequent employer's other employees.
(Ord. 99-0048 § 1 (part), 1999.)

2.201.080 - Enforcement and remedies.

For violation of any of the provisions of this chapter:

- A. An employee may bring an action in the courts of the state of California for damages caused by an employer's violation of this chapter.
- B. The county department head responsible for administering a Proposition A contract or a cafeteria services contract may do one or more of the following in accordance with such instructions as may be issued by the chief administrative officer:
 - 1. Assess liquidated damages as provided in the contract; and/or
 - 2. Recommend to the board of supervisors the termination of the contract; and/or

- D. Recommend to the board of supervisors that an employer be barred from award of future county contracts for a period of time consistent with the seriousness of the employer's violation of this chapter, in accordance with Section 2.202.040 of this code.
(Ord. 2007-0011 § 4, 2007; Ord. 99-0048 § 1 (part), 1999.)

2.201.090 - Exceptions.

- A. Other Laws. This chapter shall not be interpreted or applied to any employer or to any employee in a manner inconsistent with United States or California laws.
- B. Collective Bargaining Agreements. Any provision of this chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. This chapter shall not be applied to any employer which is a nonprofit corporation qualified under Section 501(c)(3) of the Internal Revenue Code.
- D. Small Businesses. This chapter shall not be applied to any employer which is a business entity organized for profit, including but not limited to any individual, partnership, corporation, joint venture, association or cooperative, which entity:
1. Is not an affiliate or subsidiary of a business dominant in its field of operation; and
 2. Has 20 or fewer employees during the contract period, including full time and part time employees; and
 3. Does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$1,000,000.00; or
 4. If the business is a technical or professional service, does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$2,500,000.00.

"Dominant in its field of operation" means having more than 20 employees, including full time and part time employees, and more than \$1,000,000.00 in annual gross revenues or \$2,500,000.00 in annual gross revenues if a technical or professional service.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

(Ord. 99-0055 § 1, 1999; Ord. 99-0048 § 1 (part), 1999.)

2.201.100 - Severability.

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

(Ord. 99-0048 § 1 (part), 1999.)

FOOTNOTE(S):

⁽¹⁵²⁾ **Editor's note**— Ordinance 99-0048, which enacted Ch.2.201, is effective on July 22, 1999.



**COUNTY OF LOS ANGELES
LIVING WAGE ORDINANCE**

EXHIBIT K

MONTHLY CERTIFICATION FOR APPLICABLE HEALTH BENEFIT PAYMENTS

Instruction Box: Please complete all sections of this form. Information to complete this form can be obtained from your weekly certified payroll reports. Submit this form with your Certified Payroll Reports to the awarding County department. Be sure to complete and sign this form before submitting.

(1) Name: Contractor Subcontractor Address: (Street, City, State, Zip) _____

(2) Payroll No.: _____ (3) Work Location: _____ (4) From Payroll period: ____/____/____ To Payroll period: ____/____/____ (5) For Month Ending: ____/____/____

(6) Department Name: _____ (7) Contract Service Description: _____ (8) Contract Name & Number: _____

(9) Contractor Health Plan Name(s): _____ (10) Contractor Health Plan ID Number(s): _____

(11) Employee Name, Address & Last 4 digits of SSN	(12) Work Classification	(13) Total Hours Worked Each Week of Monthly Pay Period					(14) Total Aggregate Hours	(15) Employer Paid Health Benefit Hourly Rate	(16) Gross Amount Paid (14x15)	(17) Employee Paid Health Benefit Hourly Rate	(18) Gross Amount Paid (14x17)	(19) Aggregate Health Benefits Paid (18+16)
		1	2	3	4	5						
1												
2												
3												
4												
5												

I have reviewed the information in this report and as company owner or authorized agent for this company, I sign under penalty of perjury certifying that all information herein is complete and correct. Print Authorized Name: _____	Total (This Page)	0	0	0	0	0	0	0	0	0	0
	Grand Total (All Pages)										

Authorized Signature: _____ Date: _____ Title: _____ Telephone Number (include area code) () _____ Page: _____ of _____

Revised: January 2012



COUNTY OF LOS ANGELES
LIVING WAGE PROGRAM

PAYROLL STATEMENT OF COMPLIANCE

I, _____, _____
(Name of Owner or Company Representative) (Title)

Do hereby state:

1. That I pay or supervise the payment of the persons employed by _____
on the _____;
(Company or subcontractor Name) (Service, Building or Work Site)
that during the payroll period commencing on the _____ day of _____, and
ending the _____ day of _____ all persons employed on said work site
(Calendar day of Month) (Month and Year)
have been paid the full weekly wages earned, that no rebates have been or will be made, either directly or
indirectly, to or on behalf of _____
(Company Name)

from the full weekly wages earned by any person, and that no deductions have been made either directly or
indirectly, from the full wages earned by any person, other than permissible deductions as defined in
Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended
(48 Stat. 948, 63 Stat. 108, 72 Stat. 357; 40 U.S.C. 276c), and described below:

2. That any payrolls otherwise under this contract required to be submitted for the above period are correct and
complete; that the wage rates for employees contained therein are not less than the applicable County of
Los Angeles Living Wage rates contained in the contract.

3. That:

A. WHERE FRINGE (Health) BENEFITS ARE PAID TO APPROVED PLANS, FUNDS OR PROGRAMS

In addition to the basic hourly wage rates paid to each employee listed in the above referenced
payroll, payments of health benefits as required in the contract have been or will be paid to
appropriate programs for the benefit of such employees.

B. WHERE FRINGE (Health) BENEFITS ARE PAID IN CASH

Each employee listed in the above referenced payroll has been paid, as indicated on the payroll, an
amount not less than the applicable amount of the required County of Los Angeles Living Wage
hourly rate as listed in the contract.

I have reviewed the information in this report and as company owner or authorized agent for this company, I sign under
penalty of perjury certifying that all information herein is complete and correct.
Print Name and Title Owner or Company Representative Signature:
Date:
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR
TO CIVIL OR CRIMINAL PROSECUTION. IN ADDITION, THE CONTRACTOR OR SUBCONTRACTOR MAY BE SUSPENDED AND
PRECLUDED FROM BIDDING ON OR PARTICIPATING IN ANY COUNTY CONTRACT OR PROJECT FOR A PERIOD CONSISTENT
WITH THE SERIOUSNESS OF THE VIOLATION.

INTENTIONALLY OMITTED

**BUSINESS ASSOCIATE AGREEMENT
UNDER THE HEALTH INSURANCE PORTABILITY
AND ACCOUNTABILITY ACT OF 1996 ("HIPAA")**

County is a Covered Entity as defined by, and subject to the requirements and prohibitions of, the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the "HIPAA Rules").

Contractor performs or provides functions, activities or services to County that require Contractor in order to provide such functions, activities or services to create, access, receive, maintain, and/or transmit information that includes or that may include Protected Health Information, as defined by the HIPAA Rules. As such, Contractor is a Business Associate, as defined by the HIPAA Rules, and is therefore subject to those provisions of the HIPAA Rules that are applicable to Business Associates.

The HIPAA Rules require a written agreement ("Business Associate Agreement") between County and Contractor in order to mandate certain protections for the privacy and security of Protected Health Information, and these HIPAA Rules prohibit the disclosure to or use of Protected Health Information by Contractor if such an agreement is not in place.

This Business Associate Agreement and its provisions are intended to protect the privacy and provide for the security of Protected Health Information disclosed to or used by Contractor in compliance with the HIPAA Rules.

Therefore, the parties agree as follows:

1. DEFINITIONS

- 1.1 "Breach" has the same meaning as the term "breach" at 45 C.F.R. § 164.402.
- 1.2 "Business Associate" has the same meaning as the term "business associate" at 45 C.F.R. § 160.103. For the convenience of the parties, a "business associate" is a person or entity, other than a member of the workforce of covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to Protected Health Information. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of another business associate. And in reference to the party to this Business Associate Agreement "Business Associate" shall mean Contractor.

- 1.3 "Covered Entity" has the same meaning as the term "covered entity" at 45 C.F.R. § 160.103, and in reference to the party to this Business Associate Agreement, "Covered Entity" shall mean County.
- 1.4 "Data Aggregation" has the same meaning as the term "data aggregation" at 45 C.F.R. § 164.501.
- 1.5 "De-identification" refers to the de-identification standard at 45 C.F.R. § 164.514.
- 1.6 "Designated Record Set" has the same meaning as the term "designated record set" at 45 C.F.R. § 164.501.
- 1.7 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its workforce. (See 45 C.F.R. § 160.103.)
- 1.8 "Electronic Health Record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff. (See 42 U.S. C. § 17921.)
- 1.9 "Electronic Media" has the same meaning as the term "electronic media" at 45 C.F.R. § 160.103. For the convenience of the parties, electronic media means (1) Electronic storage material on which data is or may be recorded electronically, including, for example, devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet, extranet or intranet, leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media if the information being exchanged did not exist in electronic form immediately before the transmission.
- 1.10 "Electronic Protected Health Information" has the same meaning as the term "electronic protected health information" at 45 C.F.R. § 160.103, limited to Protected Health Information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Electronic Protected

Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.

- 1.11 "Health Care Operations" has the same meaning as the term "health care operations" at 45 C.F.R. § 164.501.
- 1.12 "Individual" has the same meaning as the term "individual" at 45 C.F.R. § 160.103. For the convenience of the parties, Individual means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502 (g).
- 1.13 "Law Enforcement Official" has the same meaning as the term "law enforcement official" at 45 C.F.R. § 164.103.
- 1.14 "Minimum Necessary" refers to the minimum necessary standard at 45 C.F.R. § 162.502 (b).
- 1.15 "Protected Health Information" has the same meaning as the term "protected health information" at 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or 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; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity, and includes Protected Health Information that is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Protected Health Information.
- 1.16 "Required by Law" " has the same meaning as the term "required by law" at 45 C.F.R. § 164.103.
- 1.17 "Secretary" has the same meaning as the term "secretary" at 45 C.F.R. § 160.103
- 1.18 "Security Incident" has the same meaning as the term "security incident" at 45 C.F.R. § 164.304.
- 1.19 "Services" means, unless otherwise specified, those functions, activities, or services in the applicable underlying Agreement, Contract, Master Agreement, Work Order, or Purchase Order or

other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

- 1.20 "Subcontractor" has the same meaning as the term "subcontractor" at 45 C.F.R. § 160.103.
- 1.21 "Unsecured Protected Health Information" has the same meaning as the term "unsecured protected health information" at 45 C.F.R. § 164.402.
- 1.22 "Use" or "Uses" means, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations. (See 45 C.F.R § 164.103.)
- 1.23 Terms used, but not otherwise defined in this Business Associate Agreement, have the same meaning as those terms in the HIPAA Rules.

2. PERMITTED AND REQUIRED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

- 2.1 Business Associate may only Use and/or Disclose Protected Health Information as necessary to perform Services, and/or as necessary to comply with the obligations of this Business Associate Agreement.
- 2.2 Business Associate may Use Protected Health Information for de-identification of the information if de-identification of the information is required to provide Services.
- 2.3 Business Associate may Use or Disclose Protected Health Information as Required by Law.
- 2.4 Business Associate shall make Uses and Disclosures and requests for Protected Health Information consistent with the Covered Entity's applicable Minimum Necessary policies and procedures.
- 2.5 Business Associate may Use Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities.
- 2.6 Business Associate may Disclose Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities, provided the Disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the Protected Health Information is disclosed (i.e., the recipient) that it will be held

confidentially and Used or further Disclosed only as Required by Law or for the purposes for which it was disclosed to the recipient and the recipient notifies Business Associate of any instances of which it is aware in which the confidentiality of the Protected Health Information has been breached.

- 2.7 Business Associate may provide Data Aggregation services relating to Covered Entity's Health Care Operations if such Data Aggregation services are necessary in order to provide Services.

3. PROHIBITED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

- 3.1 Business Associate shall not Use or Disclose Protected Health Information other than as permitted or required by this Business Associate Agreement or as Required by Law.
- 3.2 Business Associate shall not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth in Sections 2.5 and 2.6.
- 3.3 Business Associate shall not Use or Disclose Protected Health Information for de-identification of the information except as set forth in section 2.2.

4. OBLIGATIONS TO SAFEGUARD PROTECTED HEALTH INFORMATION

- 4.1 Business Associate shall implement, use, and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information other than as provided for by this Business Associate Agreement.
- 4.2 Business Associate shall comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for by this Business Associate Agreement.

5. REPORTING NON-PERMITTED USES OR DISCLOSURES, SECURITY INCIDENTS, AND BREACHES OF UNSECURED PROTECTED HEALTH INFORMATION

- 5.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information not permitted by this Business Associate Agreement, any Security Incident, and/ or any

Breach of Unsecured Protected Health Information as further described in Sections 5.1.1, 5.1.2, and 5.1.3.

5.1.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors not provided for by this Agreement of which Business Associate becomes aware.

5.1.2 Business Associate shall report to Covered Entity any Security Incident of which Business Associate becomes aware.

5.1.3. Business Associate shall report to Covered Entity any Breach by Business Associate, its employees, representatives, agents, workforce members, or Subcontractors of Unsecured Protected Health Information that is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a Breach of Unsecured Protected Health Information if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of Business Associate, including a Subcontractor, as determined in accordance with the federal common law of agency.

5.2 Except as provided in Section 5.3, for any reporting required by Section 5.1, Business Associate shall provide, to the extent available, all information required by, and within the times frames specified in, Sections 5.2.1 and 5.2.2.

5.2.1 Business Associate shall make an immediate telephonic report upon discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident or Breach of Unsecured Protected Health Information to **(562) 940-3335** that minimally includes:

- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
- (b) The number of Individuals whose Protected Health Information is involved;

- (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code or other types of information were involved);
- (d) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach

5.2.2 Business Associate shall make a written report without unreasonable delay and in no event later than three (3) business days from the date of discovery by Business Associate of the non-permitted Use or Disclosure of Protected Health Information, Security Incident, or Breach of Unsecured Protected Health Information and to the **Chief Privacy Officer at: Chief Privacy Officer, Kenneth Hahn Hall of Administration, 500 West Temple Street, Suite 525, Los Angeles, California 90012, HIPAA@auditor.lacounty.gov**, that includes, to the extent possible:

- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
- (b) The number of Individuals whose Protected Health Information is involved;
- (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code or other types of information were involved);
- (d) The identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, Used, or Disclosed;

- (e) Any other information necessary to conduct an assessment of whether notification to the Individual(s) under 45 C.F.R. § 164.404 is required;
- (f) Any steps Business Associate believes that the Individual(s) could take to protect him or herself from potential harm from the non-permitted Use or Disclosure, Security Incident, or Breach;
- (g) A brief description of what Business Associate is doing to investigate, to mitigate harm to the Individual(s), and to protect against any further similar occurrences; and
- (h) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach.

5.2.3 If Business Associate is not able to provide the information specified in Section 5.2.1 or 5.2.2 at the time of the required report, Business Associate shall provide such information promptly thereafter as such information becomes available.

5.3 Business Associate may delay the notification required by Section 5.1.3, if a law enforcement official states to Business Associate that notification would impede a criminal investigation or cause damage to national security.

5.3.1 If the law enforcement official's statement is in writing and specifies the time for which a delay is required, Business Associate shall delay its reporting and/or notification obligation(s) for the time period specified by the official.

5.3.2 If the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay its reporting and/or notification obligation(s) temporarily and no longer than 30 days from the date of the oral statement, unless a written statement as described in Section 5.3.1 is submitted during that time.

6. WRITTEN ASSURANCES OF SUBCONTRACTORS

6.1 In accordance with 45 C.F.R. § 164.502 (e)(1)(ii) and § 164.308 (b)(2), if applicable, Business Associate shall ensure that any Subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate is

made aware of its status as a Business Associate with respect to such information and that Subcontractor agrees in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information.

- 6.2 Business Associate shall take reasonable steps to cure any material breach or violation by Subcontractor of the agreement required by Section 6.1.
- 6.3 If the steps required by Section 6.2 do not cure the breach or end the violation, Contractor shall terminate, if feasible, any arrangement with Subcontractor by which Subcontractor creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate.
- 6.4 If neither cure nor termination as set forth in Sections 6.2 and 6.3 is feasible, Business Associate shall immediately notify County.
- 6.5 Without limiting the requirements of Section 6.1, the agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall require Subcontractor to contemporaneously notify Covered Entity in the event of a Breach of Unsecured Protected Health Information.
- 6.6 Without limiting the requirements of Section 6.1, agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall include a provision requiring Subcontractor to destroy, or in the alternative to return to Business Associate, any Protected Health Information created, received, maintained, or transmitted by Subcontractor on behalf of Business Associate so as to enable Business Associate to comply with the provisions of Section 18.4.
- 6.7 Business Associate shall provide to Covered Entity, at Covered Entity's request, a copy of any and all Subcontractor Business Associate Agreements required by Section 6.1.
- 6.8 Sections 6.1 and 6.7 are not intended by the parties to limit in any way the scope of Business Associate's obligations related to Subcontracts or Subcontracting in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

7. ACCESS TO PROTECTED HEALTH INFORMATION

- 7.1 To the extent Covered Entity determines that Protected Health Information is maintained by Business Associate or its agents or

Subcontractors in a Designated Record Set, Business Associate shall, within two (2) business days after receipt of a request from Covered Entity, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and shall provide such Individuals(s) or other person(s) designated by Covered Entity with a copy the specified Protected Health Information, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.524.

- 7.2 If any Individual requests access to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within two (2) days of the receipt of the request. Whether access shall be provided or denied shall be determined by Covered Entity.
- 7.3 To the extent that Business Associate maintains Protected Health Information that is subject to access as set forth above in one or more Designated Record Sets electronically and if the Individual requests an electronic copy of such information, Business Associate shall provide the Individual with access to the Protected Health Information in the electronic form and format requested by the Individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by Covered Entity and the Individual.

8. AMENDMENT OF PROTECTED HEALTH INFORMATION

- 8.1 To the extent Covered Entity determines that any Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within ten (10) business days after receipt of a written request from Covered Entity, make any amendments to such Protected Health Information that are requested by Covered Entity, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.526.
- 8.2 If any Individual requests an amendment to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request. Whether an amendment shall be granted or denied shall be determined by Covered Entity.

9. ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

9.1 Business Associate shall maintain an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or Subcontractors, as is determined by Covered Entity to be necessary in order to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

9.1.1 Any accounting of disclosures provided by Business Associate under Section 9.1 shall include:

- (a) The date of the Disclosure;
- (b) The name, and address if known, of the entity or person who received the Protected Health Information;
- (c) A brief description of the Protected Health Information Disclosed; and
- (d) A brief statement of the purpose of the Disclosure.

9.1.2 For each Disclosure that could require an accounting under Section 9.1, Business Associate shall document the information specified in Section 9.1.1, and shall maintain the information for six (6) years from the date of the Disclosure.

9.2 Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of a written request from Covered Entity, information collected in accordance with Section 9.1.1 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528

9.3 If any Individual requests an accounting of disclosures directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request, and shall provide the requested accounting of disclosures to the Individual(s) within 30 days. The information provided in the accounting shall be in accordance with 45 C.F.R. § 164.528.

10. COMPLIANCE WITH APPLICABLE HIPAA RULES

- 10.1 To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity's performance of such obligation(s).
- 10.2 Business Associate shall comply with all HIPAA Rules applicable to Business Associate in the performance of Services.

11. AVAILABILITY OF RECORDS

- 11.1 Business Associate shall make its internal practices, books, and records relating to the Use and Disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations.
- 11.2 Unless prohibited by the Secretary, Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

12. MITIGATION OF HARMFUL EFFECTS

- 12.1 Business Associate shall mitigate, to the extent practicable, any harmful effect of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Business Associate Agreement that is known to Business Associate.

13. BREACH NOTIFICATION TO INDIVIDUALS

- 13.1 Business Associate shall, to the extent Covered Entity determines that there has been a Breach of Unsecured Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors, provide breach notification to the Individual in a manner that permits Covered Entity to comply with its obligations under 45 C.F.R. § 164.404.
 - 13.1.1 Business Associate shall notify, subject to the review and approval of Covered Entity, each Individual whose Unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, Used, or Disclosed as a result of any such Breach.

13.1.2 The notification provided by Business Associate shall be written in plain language, shall be subject to review and approval by Covered Entity, and shall include, to the extent possible:

- (a) A brief description of what happened, including the date of the Breach and the date of the Discovery of the Breach, if known;
- (b) A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
- (c) Any steps the Individual should take to protect him or herself from potential harm resulting from the Breach;
- (d) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to Individual(s), and to protect against any further Breaches; and
- (e) Contact procedures for Individual(s) to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

13.2 Covered Entity, in its sole discretion, may elect to provide the notification required by Section 13.1 and/or to establish the contact procedures described in Section 13.1.2.

13.3 Business Associate shall reimburse Covered Entity any and all costs incurred by Covered Entity, in complying with Subpart D of 45 C.F.R. Part 164, including but not limited to costs of notification, internet posting, or media publication, as a result of Business Associate's Breach of Unsecured Protected Health Information; Covered Entity shall not be responsible for any costs incurred by Business Associate in providing the notification required by 13.1 or in establishing the contact procedures required by Section 13.1.2.

14. INDEMNIFICATION

14.1 Business Associate shall indemnify, defend, and hold harmless Covered Entity, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs,

expenses (including attorney and expert witness fees), and penalties and/or fines (including regulatory penalties and/or fines), arising from or connected with Business Associate's acts and/or omissions arising from and/or relating to this Business Associate Agreement, including, but not limited to, compliance and/or enforcement actions and/or activities, whether formal or informal, by the Secretary or by the Attorney General of the State of California.

- 14.2 Section 14.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Insurance and/or Indemnification in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

15. OBLIGATIONS OF COVERED ENTITY

- 15.1 Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the Use or Disclosure of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own Uses and Disclosures accordingly.
- 15.2 Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except to the extent that Business Associate may Use or Disclose Protected Health Information as provided in Sections 2.3, 2.5, and 2.6.

16. TERM

- 16.1 Unless sooner terminated as set forth in Section 17, the term of this Business Associate Agreement shall be the same as the term of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 16.2 Notwithstanding Section 16.1, Business Associate's obligations under Sections 11, 14, and 18 shall survive the termination or expiration of this Business Associate Agreement.

17. TERMINATION FOR CAUSE

- 17.1 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master

Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and the breaching party has not cured the breach or ended the violation within the time specified by the non-breaching party, which shall be reasonable given the nature of the breach and/or violation, the non-breaching party may terminate this Business Associate Agreement.

- 17.2 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and cure is not feasible, the non-breaching party may terminate this Business Associate Agreement immediately.

18. DISPOSITION OF PROTECTED HEALTH INFORMATION UPON TERMINATION OR EXPIRATION

- 18.1 Except as provided in Section 18.3, upon termination for any reason or expiration of this Business Associate Agreement, Business Associate shall return or, if agreed to by Covered entity, shall destroy as provided for in Section 18.2, all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that Business Associate, including any Subcontractor, still maintains in any form. Business Associate shall retain no copies of the Protected Health Information.
- 18.2 Destruction for purposes of Section 18.2 and Section 6.6 shall mean that media on which the Protected Health Information is stored or recorded has been destroyed and/or electronic media have been cleared, purged, or destroyed in accordance with the use of a technology or methodology specified by the Secretary in guidance for rendering Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals.
- 18.3 Notwithstanding Section 18.1, in the event that return or destruction of Protected Health Information is not feasible or Business Associate determines that any such Protected Health Information is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities, Business Associate may retain that Protected

Health Information for which destruction or return is infeasible or that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities and shall return or destroy all other Protected Health Information.

18.3.1 Business Associate shall extend the protections of this Business Associate Agreement to such Protected Health Information, including continuing to use appropriate safeguards and continuing to comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for in Sections 2.5 and 2.6 for so long as such Protected Health Information is retained, and Business Associate shall not Use or Disclose such Protected Health Information other than for the purposes for which such Protected Health Information was retained.

18.3.2 Business Associate shall return or, if agreed to by Covered entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for Business Associate's proper management and administration or to carry out its legal responsibilities.

18.4 Business Associate shall ensure that all Protected Health Information created, maintained, or received by Subcontractors is returned or, if agreed to by Covered entity, destroyed as provided for in Section 18.2.

19. AUDIT, INSPECTION, AND EXAMINATION

19.1 Covered Entity reserves the right to conduct a reasonable inspection of the facilities, systems, information systems, books, records, agreements, and policies and procedures relating to the Use or Disclosure of Protected Health Information for the purpose determining whether Business Associate is in compliance with the terms of this Business Associate Agreement and any non-compliance may be a basis for termination of this Business Associate Agreement and the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, as provided for in section 17.

- 19.2 Covered Entity and Business Associate shall mutually agree in advance upon the scope, timing, and location of any such inspection.
- 19.3 At Business Associate's request, and to the extent permitted by law, Covered Entity shall execute a nondisclosure agreement, upon terms and conditions mutually agreed to by the parties.
- 19.4 That Covered Entity inspects, fails to inspect, or has the right to inspect as provided for in Section 19.1 does not relieve Business Associate of its responsibility to comply with this Business Associate Agreement and/or the HIPAA Rules or impose on Covered Entity any responsibility for Business Associate's compliance with any applicable HIPAA Rules.
- 19.5 Covered Entity's failure to detect, its detection but failure to notify Business Associate, or its detection but failure to require remediation by Business Associate of an unsatisfactory practice by Business Associate, shall not constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under this Business Associate Agreement or the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 19.6 Section 19.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Inspection and/or Audit and/or similar review in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

20. MISCELLANEOUS PROVISIONS

- 20.1 Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with the terms and conditions of this Business Associate Agreement will be adequate or satisfactory to meet the business needs or legal obligations of Business Associate.
- 20.2 HIPAA Requirements. The Parties agree that the provisions under HIPAA Rules that are required by law to be incorporated into this Amendment are hereby incorporated into this Agreement.
- 20.3 No Third Party Beneficiaries. Nothing in this Business Associate Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

- 20.4 Construction. In the event that a provision of this Business Associate Agreement is contrary to a provision of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, the provision of this Business Associate Agreement shall control. Otherwise, this Business Associate Agreement shall be construed under, and in accordance with, the terms of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 20.5 Regulatory References. A reference in this Business Associate Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- 20.6 Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits the parties to comply with the HIPAA Rules.
- 20.7 Amendment. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the HIPAA Rules and any other privacy laws governing Protected Health Information.

TECHNICAL EXHIBITS

TECHNICAL EXHIBITS
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Technical Exhibits

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6 Contract Discrepancy Report.....

7 Workers’ Compensation Payments and Negotiation Authorization Limits

8 Sample Balance Sheet.....

9 Claim Status Report.....

Los Angeles County Code 5.31.050**5.31.050 Workers' Compensation System.**

- A. The Director of Personnel shall establish, administer and operate, as part of the county-wide safety program, a complete self-insured workers' compensation system to ensure the full provision of benefits under the law to employees whose injuries arise out of and in the course of employment. The system shall include provision for medical, surgical, hospital, and other treatment required to cure and relieve the effects of injury, as well as payment of temporary and permanent disability compensation and death benefits as prescribed by state law or by county ordinance. As part of this responsibility, the Director of Personnel shall establish and administer procedures to provide for the following:
1. Reporting, investigation, and adjustment of claims arising out of accidents and injuries;
 2. Determination of compensability of medical treatment and the payment of all workers' compensation benefits prescribed by state law or county ordinance;
 3. Collection, compilation and reporting of statistical data, including departmental cost experience and actuarial projections;
 4. Establishment and review of reserves on each case to reflect incurred cost of all anticipated benefits;
 5. Control of workers' compensation costs consistent with provision of full benefits under the law.
- B. The County Counsel shall provide legal counsel and representation in any litigation related to workers' compensation. (Ord. 84-0220 § 1 (a)(part), 1984; Ord. 82-0264 § 1 (part), 1982; Ord. 9802 § 5, 1969; Ord. 8740 § 3, 1969; Ord. 8512 § 4 (part), 1963; Ord. 4099 Art. 3 § 78.02, 1942.)

COUNTY OF LOS ANGELES WORKERS' COMPENSATION PROGRAM THIRD PARTY ADMINISTRATOR DEPARTMENT ASSIGNMENTS UNIT 3	
DEPT. NUMBER	COUNTY DEPARTMENT
035	Museum of Art
050	Auditor Controller
055	Department of Beaches and Harbors
060	Chief Executive Office
061	Board of Supervisors
063	Office of Affirmative Action
068	Commission on Human Relations
080	Chief Information Office
100	Department of Human Resources
101	Office of Public Safety
300	Internal Services
310	County Clerk - Superior Court
340	Coroner
360	County Counsel
370	District Attorney
371	Child Support DA
390	Fire Department
440	Museum of Natural History
461	Public Library
600, 614 & 615	Parks and Recreation
670	Public Defender
675	Alternate Public Defender
771	Office of Ombudsman
815	Grand Jury
841, 842 & 843	Superior Court

DELAYED CLAIMS ADMINISTRATION REPORT

EMPLOYEE NO.:		Examiner:	
Claim Number: 3000- -		Name:	
Claim Report:	<input type="checkbox"/> 30 day	<input type="checkbox"/> 60 day	<input type="checkbox"/> 90 day
Date of Employer's Knowledge of Injury:			
Basis for this date (Claim form, Discussion with employer, Application, etc.):			
Date Contractor must Decide Acceptance or Denial:			
Date of Contractor's Receipt of Claim:			
Parts of Body Alleged Injured:			
Lost Time:	<input type="checkbox"/> None	From:	To:
Employer sent employee to Doctor?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
If No: QME Exam(s) set for AOE/COE:			
Name of Doctor:	Name of Doctor:	Name of Doctor:	
Date of Exam:	Date of Exam:	Date of Exam:	
Specialty:	Specialty:	Specialty:	
AOE/COE Invest:	Date Requested:	<input type="checkbox"/> Not necessary	
Personnel File:	Date Requested:	<input type="checkbox"/> Not Necessary	
Wage Statement:	Date Requested:	<input type="checkbox"/> Not Necessary	
Job Description:	Date Requested:	<input type="checkbox"/> Not Necessary	
Medical Releases:	Date Requested:	<input type="checkbox"/> Not Necessary	
Date records sent to QME for review:			
Case Final Outcome:			
Date of Denial:		Number days since DOK:	
Date of Acceptance:		Number days since DOK:	
Case Litigated:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
If yes: Date application received by Contractor:			
Date litigation file forwarded to County Counsel:			
Case Reserves:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Case on Diary:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Sub status Codes:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Supervisor Review:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Employer Advised of Status of Claim:		Date(s) Advised:	
Action to be taken:			

QUALITY ASSURANCE MONITORING PLAN

A. Introduction

The County or its authorized representative shall have the right at all times to monitor and inspect Contractor's performance under this Contract. This Exhibit sets forth the performance requirements that will apply to Contractor's service hereunder. Technical Exhibit 9 sets forth the County's performance expectations.

The County expects a high standard of the Contractor's performance under this Contract. The Contractor shall provide the County, or its authorized representative, reasonable access at all times during the Contractor's business hours for the purpose of monitoring and inspecting the Contractor's services hereunder. The County Contract Administrator (CCA) will make every effort to work with the Contractor to resolve any areas of difficulty; however, it is the Contractor's responsibility to satisfactorily provide all the services in the Statement of Work.

B. Measurements

The County may use a variety of inspection methods to evaluate the Contractor's performance. The methods of monitoring may include, but are not limited to the following:

- A comprehensive and complete audit by an independent auditor shall be conducted on each administrator annually to determine fee impact focusing on results;
- The Risk Management Branch designee shall request periodic audits of each administrator by County staff or an independent auditor to develop desired TPA performance focusing on processes;
- Monitoring by OSCRs;
- The County will have access to the appropriate employment documents to verify that the claims examiners meet the minimum qualifications and experience;
- Departmental complaints or user complaints;
- Random sampling of completed reports and case files. An audit shall be performed by the QAE, County representatives for periodic audits or an independent outside auditor for annual fee impact audits; and
- Other methods deemed by the CCA/designee to be appropriate for the evaluation of the Contractor's performance.

Measured components are described in Statement of Work, Paragraph 10 and Technical Exhibit 9.

QUALITY ASSURANCE MONITORING PLAN**C. Performance Indicators**

The County will apply performance indicators to work requirements under the contract in accordance with industry best practices described in Technical Exhibit 9 and the County's own Audit Criteria. The County's Audit Tool addresses components including Liability Decision, Investigation, Subrogation, Reserve Adequacy, Gencomp Database (usage), Payment Data, Case Administration, Return to Work and Medical Only. Each component is assessed using detailed instructions for reviewing each claim against component criteria questions, which when answered "yes," "no," or "not applicable" are weighted based upon the importance of the claims handling activity to the County. For reviewed claims, weighting is applied to 'yes' and 'no' determinations and the sum is divided into the sum for 'yes' to determine the TPA's percentage of compliance.

These performance indicators and the County's Audit Tool may change from time to time due to statutory requirements or agreement with the Contractor. The County's Audit Tool shall be thoroughly discussed with the TPA selected as a result of this solicitation during contract negotiations.

QUALITY ASSURANCE MONITORING PLAN**SAMPLE SIZE CHART**

<u>LOT SIZE</u>	<u>NORMAL SAMPLE</u>	<u>REDUCED SAMPLE</u>
	<u>SIZE</u>	<u>SIZE</u>
2-8	2	2
9-15	3	2
16-25	5	2
26-50	8	3
51-90	13	5
91-150	20	8
151-280	32	13
281-500	50	20
501-1,200	80	32
1,201-3,200	125	50
3,201-10,000	200	80
10,001-35,000	315	125

PERFORMANCE REQUIREMENTS SUMMARY CHART

REQUIRED SERVICES	STANDARD	MAXIMUM ALLOWED DEVIATION (AQLS)	METHOD OF SURVEILLANCE	LIQUIDATED DAMAGES FOR EXCEEDING THE AQLS
Overall compliance with Section 1.0 (Scope of Work) of Exhibit A (Statement of Work)	100% adherence to County requirements	0%	- User and/or Staff Complaints - Random Inspections - Random and/or Judgmental Samplings	Up to \$100 per occurrence per day until rectified
Overall compliance with Section 2.0 (Specific Tasks) of Exhibit A (Statement of Work)	100% adherence to County requirements	0%	- Random Inspections - Random Samplings - Information from Contractor Reports	\$100 per occurrence per day until rectified
Contractor shall establish and maintain a Quality Control Plan to assure that the requirements of the Contract are met pursuant to Section 3.0 (Quality Control Plan) of Exhibit A (Statement of Work)	100% adherence to County requirements	0%	- User and/or Staff Complaints - Random Inspections - Random and/or Judgmental Samplings	Up to \$100 per occurrence per day until rectified
Personnel assigned to provide service under this contract shall be fingerprinted prior to employment pursuant to Subparagraph 7.4.1 of the Contract	100% adherence to County requirements	0%	- User and/or Staff Complaints - Random Inspections - Random and/or Judgmental Samplings	Up to \$100 per occurrence per day until rectified
No Contractor personnel shall have a criminal conviction unless such record has been fully disclosed previously pursuant to Subparagraph 7.4.2 of the Contract	100% adherence to County requirements	0%	- User and/or Staff Complaints - Random Inspections - Random and/or Judgmental Samplings	Up to \$100 per occurrence per day until rectified
Contractor shall reimburse County for record check pursuant to Subparagraph 7.4.6 of the Contract	100% adherence to County requirements	0%	- User and/or Staff Complaints - Random Inspections - Random and/or Judgmental Samplings	Up to \$100 per occurrence per day until rectified
Contractor in compliance with Standard Terms and Conditions as referenced in Paragraph 8.0 (Standard Terms and Conditions) of the Contract	100% adherence to County requirements	0%	- Random Inspections - Random Samplings - Information from Contractor Reports	\$100 per occurrence per day until rectified

PERFORMANCE AUDIT CRITERIA**AUDIT CRITERIA****Introduction**

This manual describes the criteria by which 37 different areas of performance are to be measured.

The program references a recommended weight factor for each audit criteria.

The instructions for each audit criteria are as follows:

Definition

General definition of the area to be audited.

Instructions to Auditor:

Series of questions the Auditor may consider while reviewing these audit criteria. The answers to these questions will give the Auditor insight into how to grade the performance of the Third Party Administrator (TPA) on these audit criteria.

Application

Defines the type of claim to which these audit criteria applies.

Audit Criteria

The listed factors should be considered when evaluating the TPA's performance on these audit criteria. **The audit criteria are not to be considered a complete list of factors to be considered while auditing this area.** They should be thought of as guides for evaluating the TPA's performance.

PERFORMANCE AUDIT CRITERIA**Liability Decision****Decision Correct?**

Program Reference: A 1
Weight Factor: 3

Definition

The decision to accept, deny, or delay the claim was properly made and statutory benefit notices sent to the employee.

Instruction to Auditor

Determine if the decision to accept, deny, or delay claim was properly made based on the facts known at the time the decision was made.

On cases delayed prior to acceptance or denial, determine if decision to delay was appropriate and was the final decision appropriate based upon information known at the time the decision was made.

Application

All claims

Factors to be considered

The Auditor may consider the following when evaluating this audit item:

1. Type and severity of injury.
2. Mechanism by which injury occurred.
3. Time of injury.
4. Information available to the TPA that places claim in doubt.
5. Defenses available to deny claim.
6. Employment status.
7. Type of medical treatment & diagnosis.
8. Time between injury and employers knowledge.

Additional Directions

1. If case opened as indemnity, but should have been medical-only, score decision correct "Y", but Medical Only determination "N".
2. Written notice of any decision to accept, deny, or delay claim shall be issued on all claims.

PERFORMANCE AUDIT CRITERIA

Liability Decision

Decision Timely?**Program Reference:** A 2**Weight Factor:** 3**Definition**

The decision to accept, deny, or delay a claim was made in accordance with statutory time limits.

Instruction to Auditor

Determine if the decision to accept, deny, or delay a claim was made in a timely manner.

Application

All Claims

Factors to consider

1. Were labor code requirements to accept, deny, or delay claim within 14 days met?
2. If claim was delayed, was a decision to accept or deny, made within 90 days pursuant to labor code requirements?
3. If not accepted or denied within 90 days, was the claim of such complex nature that additional delay is warranted?
4. If compensability notice was issued timely, does the file reflect necessary investigation was initiated and a final determination to accept or deny claim was made as quickly as possible?
5. Has failure to make a timely decision by the 90th day caused forfeiture of defenses, which could have reasonably led to a claim denial?
6. **Benefit notices will be used in determining dates upon which above events took place.** Claims that do not contain appropriate benefit notices will be considered to have failed this audit category, regardless of any other documentation in file. In the event of a no lost-time claim, the acceptance notice will be used in lieu of statutory notices.

Additional Directions

1. If TPA receives claim within the first 8 days of employer date of knowledge, the benefit notice is due by the 14th day from employer date of knowledge.
2. If TPA receipt of claim is after the 8th day, TPA is given seven (7) days from receipt of claim to issue a benefit notice delaying, accepting, or denying claim.

PERFORMANCE AUDIT CRITERIA**Investigation****AOE / COE Need Identified and Adequately Completed?**

Program Reference: B 1
Weight Factor: 2

Definition

The TPA recognized the need to assign a field investigation to determine compensability. The investigation is complete and timely.

Instruction to Auditor

Determine if the TPA properly identified the need for further investigation to resolve issues of compensability.

Application

All claims where field investigation was conducted or should have been conducted.

Factors to be Considered

1. Does documentation within the file support the decision to investigate or not investigate?
2. If the claim was denied, was necessary investigation conducted prior to the denial?
3. If the claim was delayed, was investigation conducted which would lead to a final decision?
4. If the claim was accepted, was investigation necessary to support such a decision?
5. Was the decision to investigate or not investigate based on the facts known at the time a decision was made?
6. Was an unnecessary investigation assigned?
7. Did TPA make sufficient efforts to collect information to avoid assigning investigation?

Additional Directions

1. Only applies to field investigation.
2. Report must be available in claims file at time of audit. If not, the score will be "N" even if assignment was appropriately made.

PERFORMANCE AUDIT CRITERIA**Investigation****Sub Rosa Need Identified?****Program Reference:** B 2**Weight Factor:** 1**Definition**

Sub rosa investigation was assigned based on documented articulable suspicion.

Instruction to Auditor

If sub rosa investigation was conducted or should have been conducted, determine if the TPA recognized the need for such investigation.

Application

All claims where sub rosa was conducted or should have been conducted.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Was the decision to conduct sub rosa based on sound judgment which would eliminate or reduce the exposure to the County?
2. Did the TPA fail to assign sub rosa as necessary based on the facts of the claims?
3. Were the results of the investigation documented?
4. Did the TPA take any necessary and appropriate actions based on the results of the investigation?

PERFORMANCE AUDIT CRITERIA

Investigation**State Panel QME Packet Sent Timely?****Program Reference:** B 3**Weight Factor:** 2**Definition**

State Panel QME packet sent timely to injured worker for completion

Instruction to Auditor

Determine if the State Panel QME packet was sent timely.

Application

All claims where a medical evaluation was needed to determine AOE/COE.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Was a medical evaluation needed to determine AOE/COE?
2. Was the packet sent to the injured worker within 14 days of employer date of knowledge of claim?

Additional Directions

1. If TPA receives claim within the first 8 days of employer date of knowledge, the packet is due by the 14th day from employer date of knowledge.
2. If TPA receipt of claim is after the 8th day, TPA is given seven (7) days from receipt of claim to issue the packet.

PERFORMANCE AUDIT CRITERIA**Investigation****State Panel QME Exam Scheduled Timely and Appropriately?**

Program Reference: B 4

Weight Factor: 1

Definition

State Panel QME exam scheduled timely and appropriately.

Instruction to Auditor

Determine if the State Panel QME exam was scheduled timely and appropriately.

Application

All non-litigated claims where a medical evaluation was needed to determine AOE/COE.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Did the employee failed to submit the forms to the AD within ten days of receipt? If so, did the TPA submit the forms within ten days of that date?
2. Did the TPA choose the proper medical specialty based on the facts of the claim?
3. Did the employee failed to choose a physician from the panel provided by the AD? If so, did the TPA schedule an exam with a physician from the panel within ten days of that date?

Additional Directions

The Auditor should factor in five days of mailing time in the calculation of the due dates, if the actual dates are not known.

PERFORMANCE AUDIT CRITERIA

Subrogation**Subrogation Identified?**

Program Reference: C 1

Weight Factor: 2

Definition

Potential subrogation recovery is recognized by the TPA.

Instruction to Auditor

On those cases where subrogation was possible, determine if the TPA recognized the potential for subrogation recovery.

Application

All claims where subrogation was identified or should have been identified based on the information available.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Does the file reflect that the TPA recognized the possibility of subrogation recovery?

Additional Directions

1. All cases shall have documentation showing that potential subrogation was identified timely and why it was or was not pursued.

PERFORMANCE AUDIT CRITERIA

Subrogation**Timely Pursuit?**

Program Reference: C 2

Weight Factor: 2

Definition

The TPA takes effective and timely action to pursue recovery from negligent third parties.

Instruction to Auditor

Determine if the TPA took appropriate steps to pursue recovery from negligent third parties, in a timely manner.

Application

All claims where subrogation was pursued or should have been pursued.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Was investigation necessary to prosecute subrogation conducted in a timely manner?
2. Were the responsible parties notified within 10 days of identification?
3. Was subrogation investigation referred to the designated County representative?
4. Was the appropriate level of investigation conducted to generate facts which would lead to successful prosecution of subrogation rights?
5. Was the case referred to counsel for pursuit of subrogation in a timely manner?
6. Was the statute of limitations to pursue subrogation protected?
7. Was proper lien information transmitted to the subrogation attorney?
8. If no legal representation, did the TPA pursue recovery from the appropriate third party?

Additional Directions

1. All cases shall have documentation showing that potential subrogation was identified timely and why it was or was not pursued.

PERFORMANCE AUDIT CRITERIA

Reserve Adequacy**Proper Case Reserves?**

Program Reference: D 1

Weight Factor: 1

Definition

Case reserves are defined as follows: total of all payments on the file plus the outstanding reserves.

Instruction to Auditor

Determine if the current case reserves are based on the expected cost of the claim.

Application

All claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Nature of injury.
2. Extent of injury.
3. Nature of work.
4. Employee profile (i.e., age, length of employment).
5. Medical treatment received.
6. Prognosis for recovery.
7. Likelihood of future treatment and disability.

Additional Directions

1. Reserves should be based on the expected costs with documentation of analysis in the file.
2. If file is closed, this category will not be scored.

PERFORMANCE AUDIT CRITERIA

Reserve Adequacy**Reserves Adjusted Timely?****Program Reference:** D 2**Weight Factor:** 2**Definition**

Case reserves are changed with the changing status and ultimate expected cost of the claim.

Instruction to Auditor

Determine if case reserves were adjusted in a timely manner based on the facts of the case as they became known.

Application

All claims

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Were initial reserves established within two working days of receipt of the claim?
2. Does the reserve history reflect that the TPA adjusts reserves in accordance with the changing facts?
3. Do reserves reflect the changing medical and disability status of the claim?
4. Does the file indicate reserves are reviewed no less frequently than semi-annually?

Additional Directions

1. If file is closed, reserve amount will not be scored, but review file to see if adjusted timely.

PERFORMANCE AUDIT CRITERIA

WCCAIS Database

Primary WCCAIS Data Fields Accurate and Up-to-Date?

Program Reference: E 1

Weight Factor: 2

Definition

New claims are input into the County's Workers' Compensation Claims Administration and Information System (WCCAIS) within one working day of receipt of the claim with primary WCCAIS fields entered accurately. Primary WCCAIS fields are correct at the time of audit.

Instruction to Auditor

Determine if the claim was input into the WCCAIS computer system within three (3) working days from TPA's receipt of claim.

Determine if primary data fields were input accurately and completely.

Determine if primary data fields were updated and accurate based on the changing facts of the case.

Application

All claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Was claim originally input into the WCCAIS system by the TPA being audited?
2. What information was available to the TPA at the time the claim was originally input?
3. Has the TPA corrected any errors made by the prior TPA?
4. Have data fields been brought up to date as new information was obtained on the claim?
5. Is the current coding accurate based on the facts known at the time of the audit?
6. How long has the TPA been responsible for the claim, and have they had sufficient time to correct errors made by the prior TPA?

Additional Directions

The primary data fields are:

- Employee's name
- Employee's address
- Employee's social security number
- Employee's salary
- Date of injury

If any of these fields are not coded correctly, based on the above criteria, the category should be scored "N".

PERFORMANCE AUDIT CRITERIA

WCCAIS Database

Secondary WCCAIS Data Fields Accurate and Up-to-Date?**Program Reference:** E 2**Weight Factor:** 1**Definition**

New claims are input into WCCAIS within one working day of receipt of the claim with secondary WCCAIS fields entered accurately. Secondary WCCAIS fields are correct at the time of audit.

Instruction to Auditor

Determine if secondary data fields were input accurately and completely.

Determine if secondary data fields were updated and accurate based on the changing facts of the case.

Application

All claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Was claim originally input into the WCCAIS system by the TPA being audited?
2. What information was available to the TPA at the time the claim was originally input?
3. Has the TPA corrected any errors made by the prior TPA?
4. Have data fields been brought up to date as new information was obtained on the claim?
5. Is the current coding accurate based on the facts known at the time of the audit?
6. How long has the TPA been responsible for the claim, and have they had sufficient time to correct errors made by the prior TPA?

Additional Directions

1. RTW field should be actual RTW date, not date employee was released to return to work.
2. On NLT cases, the date can be actual DOI or day after DOI.
3. Secondary data fields are those data fields not specified in E1. If three or more of these fields are not coded correctly, the score should be "N".

PERFORMANCE AUDIT CRITERIA**Payment Data****TD Payments Paid Timely?**

Program Reference: F 1

Weight Factor: 3

Definition

Temporary total and temporary partial disability benefits are paid in accordance with time requirements of the labor code. Benefit notices reflect timely delivery of TTD and TPD.

Instruction to Auditor

Determine if temporary total disability benefits and temporary partial disability benefits were paid in accordance with time limits established by the California Labor Code.

Application

All indemnity claims.

Factors to be Considered.

The Auditor may consider the following when evaluating this audit item:

1. Are benefit notices completed accurately and timely in accordance with the California Worker's Compensation Labor Code when an employee is on wage continuation?
2. Are copies of the benefit notices sent to the appropriate county departments?
3. Do benefit notices reflect the proper wage and benefit levels as well as the appropriate periods of total disability. Did the TPA recognize the need for temporary total disability payments after wage continuation stops?
4. Was the initial as well as subsequent payment of temporary disability made in accordance with the labor code?
5. Were periods of temporary total disability documented with medical and employer information supporting and authorizing temporary total disability?
6. Were fines or penalties paid or due because of the TPA's failure to pay TTD or TPD?

PERFORMANCE AUDIT CRITERIA

Payment Data**Permanent Disability Paid Timely?**

Program Reference: F 2

Weight Factor: 3

Definition

Issues of permanent partial disability are addressed and permanent disability payments are made in accordance with time requirements established in the labor code.

Instruction to Auditor

Determine if the TPA fulfilled the labor code obligation to ascertain the employee's eligibility for permanent disability. If the employee was eligible for permanent disability, determine if advances were started and paid in accordance with the requirements of the labor code.

Determine if all subsequent permanent disability advances were made in a timely manner and in accordance with the requirements of the labor code.

Application

All claims where PPD, LP, or PTD was paid or should have been paid.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Did the TPA take the necessary steps to ascertain the employee's eligibility for permanent disability?
2. If the employee was eligible for permanent disability, were advances started in accordance with time requirements of the labor code?
3. If permanent disability advances were made, were subsequent payments made in a timely manner?
4. Was a reasonable and appropriate amount of permanent disability advanced?

PERFORMANCE AUDIT CRITERIA

Payment Data**Disability Benefits Paid Accurately?**

Program Reference: F 3

Weight Factor: 3

Definition

All indemnity benefits are paid at the correct rate and for the correct period of time.

Instruction to Auditor

Determine whether all disability benefits were paid at the proper rate and for the proper time periods.

Application

All indemnity claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Did the TPA make a good faith effort to obtain wage documentation when the rate was less than maximum of the proper rate was in question?
2. Did the TPA recognize changes of rate dictated by the labor code?
3. Was the proper rate paid?
4. Were benefits paid for the correct time periods?
5. Were any duplicate payments made?

PERFORMANCE AUDIT CRITERIA

Payment Data**Death Benefit Properly Paid?**

Program Reference: F 4

Weight Factor: 2

Definition

Proper dependents are identified and payments are made at the correct rate and in a timely manner.

Instruction to Auditor

Determine if the TPA paid death benefits at the proper rate, in a timely manner, and to the proper dependents of a deceased employee.

Application

All indemnity claims where an alleged injury or illness caused the death of the employee.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Were benefits paid at the rate in effect at the time of the death of the employee?
2. Did the TPA properly identify dependents entitled to statutory death benefits?
3. Were payments made timely and in accordance with the requirements of the labor code?
4. Was the burial expense paid timely and at the proper rate based on the documentation supplied?

PERFORMANCE AUDIT CRITERIA

Payment Data**Case Balanced Per County Guidelines?**

Program Reference: F 5

Weight Factor: 2

Definition

The claim was balanced in accordance with procedure and time requirements as established by the County.

Instruction to Auditor

Determine if the file was correctly balanced at the last date balancing was required. For extremely complex files, determine if the TPA made a good-faith attempt to balance the file.

Application

All indemnity claims where indemnity or rehabilitation benefits have been paid.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. When was the last balance required?
2. Was the file accurately balanced?
3. Is this a complex and difficult file to balance?
4. Was a good faith-effort made to balance the file?

Additional Directions

1. Case Balanced per County Guidelines:
 - a. It has been determined that TPA will be given 14 calendar days from date benefits were adjusted, ended or changed to correctly balance the file.
 - b. On cases where payments are on cycle, claim should be balanced at least once every 52 weeks.

PERFORMANCE AUDIT CRITERIA

Payment Data**Transportation Expenses Paid?**

Program Reference: F 6

Weight Factor: 2

Definition

Transportation expenses are documented and paid at the correct rate, within the time requirements of the labor code.

Instruction to Auditor

Determine if transportation expenses were paid at the proper rate, for proper mileage and in accordance with benefits allowed by the labor code.

Application

All claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Was the proper mileage rate paid?
2. Did the TPA request a travel expense statement from the injured employee?
3. Was the mileage paid in accordance with doctor's visits as indicated on the physician's bill?
4. If the employee did not submit a mileage statement did the TPA estimate and voluntarily pay mileage?
5. Were mileage and travel expenses paid in a timely manner and in accordance with the labor code?

PERFORMANCE AUDIT CRITERIA

Payment Data**Medical Bills Sent for Fee Review?**

Program Reference: F 7

Weight Factor: 1

Definition

Medical bills are sent to be reviewed by the designated Medical Management Company.

Instruction to Auditor

Determine if the medical bills in file, received during the audit period, were referred to the designated Medical Management Company

Application

All claims with medical bills received during the audit period.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Were the medical bills received by the TPA forwarded to the designated Medical Management Company?

PERFORMANCE AUDIT CRITERIA

Payment Data**Payment-Processing Controls Followed?**

Program Reference: F 8

Weight Factor: 1

Definition

Payments are authorized, entered, and released in accordance with County policy.

Instruction to Auditor

Determine if TPA complied with payment-processing controls in accordance with County policy.

Application

All claims with payment requests processed by the TPA during this audit period.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Did payment request contain approvals from all necessary personnel (TPA and/or COLA)?
2. If delegation of authority was needed, was paperwork completed signed, and attached to the payment request?
3. Were all approvals completed with the full name and date printed out or date-stamped?
4. Did approvals include initials or signatures of approving party(ies)?
5. Are the initials on the transaction in WCCAIS of someone with "Y" release authority?

PERFORMANCE AUDIT CRITERIA

Payment Data**Bill Payment Timely?**

Program Reference: F 9

Weight Factor: 2

Definition

Vendor bills are authorized within 21 days of receipt and paid in accordance with statutory requirements.

Instruction to Auditor

Determine if vendor bills are authorized for payment and paid in a timely manner.

Application

All claims where a vendor bill has been authorized for payment during the audit period.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Does a legible date stamp indicate the date on which the bill was received by the TPA?
2. If the bill is not date stamped with the receipt date, it will be considered to have been paid in an untimely manner.
3. Did a payment issue in accordance with statutory requirements?

PERFORMANCE AUDIT CRITERIA

Payment Data**Payment Accurate?**

Program Reference: F 10

Weight Factor: 2

Definition

Payments to vendors are accurate and supported by claim file documentation.

Instruction to Auditor

Determine if the proper amount was paid on the vendor bills considering the claim documentation and services rendered.

Application

All claims where a vendor bill has been authorized for payment during this audit period.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Was an underpayment or overpayment made on the bills reviewed?
2. Was supporting documentation to issue payment in the claim file?

Additional Directions

1. If bill is missing, but per WCCAIS it went to Fee Review, assess for accurate bill payment, not file documentation.

PERFORMANCE AUDIT CRITERIA

Case Administration

Case Under Medical Control?

Program Reference: **G 1**

Weight Factor: **2**

Definition

The TPA controls medical treatment and costs by directing medical care, special examinations, second opinions, utilization review and communicating with physicians.

Instruction to Auditor

Determine if the TPA availed itself of all possible methods allowed by the labor code to control the type of medical treatment, cost of medical treatment and medical/legal evaluations in a manner such as to result in an early and economical disposition of the claim.

Application

All claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Did the TPA direct the employee to approved medical providers?
2. Did the employee file a notice to treat with personal physician prior to the injury?
3. Did the TPA require medical reports from the treating physician at appropriate time intervals?
4. Did the TPA arrange for consultations at appropriate time intervals?
5. Did the injured employee receive treatment from the appropriate medical specialist? If not, did the TPA object to or redirect treatment to the appropriate medical specialist?
6. Did the TPA object to bills or treatment for inappropriate physicians?
7. Did the TPA communicate with treating and evaluating physicians to ensure that proper treatment is being rendered?
8. Did the TPA obtain necessary medical records in a timely manner?
9. Did the TPA schedule appropriate medical legal evaluations with the proper specialty?
10. Did the TPA timely and accurately send requests for utilization review to the designated Medical Management Company pursuant to statutory requirements and County policy?

PERFORMANCE AUDIT CRITERIA

Case Administration

Good File Documentation?

Program Reference: G 2

Weight Factor: 2

Definition

Documents, correspondence and notes reflect the events that have taken place on the claim.

Instruction to Auditor

Determine if documents contained in the file accurately and completely reflect the activities which have occurred on the file.

Application

All claims

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. File Documentation consists of, but is not limited to the following:
 - Correspondence
 - Medical reports
 - Examiner notes, including documented review and plans of action no less than 45-day intervals for indemnity claims and 90-day intervals for medical only claims.
 - State-required forms
 - County-required forms, including the 30/60/90 day checklist on delayed claims.
 - TPA forms
 - Reports from vendors
2. Does file documentation reflect the sequence of events and activities which have occurred on the claim?
3. Do the file and computer records contain accurate and proper documentation of all financial transactions on the claim?

Additional Directions

1. Mark "N" if benefit notices for CAT 25, 26, or 29 but no payment request of Salary Continuation Verification Form in file.
2. Can review companion files if available. If medical report found in companion file, assess under file documentation, not failure to have medical report.
3. Mark "N" if applicable sub pay categories are not used.
4. In bill missing, but WCCAIS shows it went to Fee Review, assess under accurate bill payment, not file documentation.

PERFORMANCE AUDIT CRITERIA**Case Administration****Correspondence Handled Timely?**

Program Reference: G 3
Weight Factor: 2

Definition

Requests for information or action are responded to promptly and in accordance with the urgency and importance of the request.

Instruction to Auditor

Determine if the TPA responded to and took appropriate action based on correspondence in a timely manner.

Application

All claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Is the correspondence of such a nature that it requires a response or action to be taken?
2. Did the TPA respond to correspondence in a timely manner based on the urgency and type of correspondence?
3. What entity is originating the correspondence?
4. Is the correspondence in the form of a complaint?
5. Is the correspondence regarding high priorities such as benefit delivery or other factors which will impact the speedy and cost effective resolution of the claim?

Additional Directions

1. Put "O" if there's nothing to be handled.
2. Investigation reports shall be considered correspondence for the purposes of this category.

PERFORMANCE AUDIT CRITERIA**Case Administration****Settlement / Closure Timely and Appropriate?**

Program Reference: G 4

Weight Factor: 2

Definition

TPA took action to bring claim to a timely and appropriate resolution.

Instruction to Auditor

Determine if the claim was brought to a timely resolution.

Application

All claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Consider the complexity and nature of the claim.
2. What is the litigation status of the claim?
3. What is the nature of the injury and the probable course and time of treatment?
4. What are the labor code requirements for final resolution of the claim?
5. Did the TPA take the necessary steps and implement a strategy which would lead to timely resolution?

PERFORMANCE AUDIT CRITERIA

Case Administration**Evidence of Supervisory Control?**

Program Reference: G 5

Weight Factor: 2

Definition

Supervisors provide appropriate guidance at the inception of claim and as necessary on a continuous basis.

Instruction to Auditor

Determine if supervisor identified critical issues and provided specific instructions.

Application

All claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Is there evidence of supervisory involvement in the form of recommendations and comments regarding past and future claim handling activities?

PERFORMANCE AUDIT CRITERIA

Case Administration**Initial Three-Point Contact?**

Program Reference: G 6

Weight Factor: 2

Definition

Injured workers or their legal representative, appropriate departmental staff, and medical providers are contacted by telephone within three working days of receipt by the TPA.

Instruction to Auditor

Determine if the TPA made a good faith attempt to contact injured workers or their legal representative, appropriate departmental staff, and medical providers by telephone within three working days of receipt of a claim.

Application

All claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Date of receipt is considered the date the TPA had knowledge of the injury from the County, the treating physician, the injured worker, or their legal representative.
2. How many attempts to contact the necessary parties are documented in the file?
3. Written communications and benefit notices may not be considered to meet the requirements of this section.
4. Under most circumstances, one unsuccessful attempt to contact an injured worker is not considered to be a good faith attempt to make contact.

Additional Instructions

1. This category shall be judged based on the documentation in the WCCAIS claim notes.

PERFORMANCE AUDIT CRITERIA

Legal / Litigation**Timely Referral to Legal?**

Program Reference: H 1

Weight Factor: 1

Definition

Litigation is referred to County counsel at the proper time but not to exceed 30 days.

Instruction to Auditor

Determine if the TPA referred the claim to County counsel in a timely manner that would allow defense counsel the time necessary to prepare a defense and pursue discovery, but not to exceed 30 days from written notice of representation.

Application

All litigated claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item.

1. When did the TPA become aware that this was litigated?
2. On what date did the TPA receive a copy of the application for adjudication of claim?
3. On what date did the TPA refer the case to counsel?

PERFORMANCE AUDIT CRITERIA

Legal / Litigation**Subsequent Documentation Sent to Legal Counsel Timely?**

Program Reference: H 2

Weight Factor: 2

Definition

Relevant documentation subsequent to the initial referral sent to defense counsel within five days of receipt that allows proper defense of the claim.

Instruction to Auditor

Determine if the TPA sent copies of medical reports and other documentation to defense counsel in a timely manner.

Application

All litigated claims

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. What documentation is necessary and appropriate for referral to defense counsel?
2. When was this material received by the TPA?
3. When was this material forwarded to defense counsel?

PERFORMANCE AUDIT CRITERIA

Legal / Litigation**Analysis Provided to Counsel Prior to Hearing?**

Program Reference: H 3

Weight Factor: 2

Definition

TPA provides analysis with all pertinent information to defense counsel prior to any WCAB appearance.

Instruction to Auditor

Determine if the TPA provided an analysis of the case to defense counsel before MSC or trial at the WCAB.

Determine if the TPA provided pertinent information such as an accounting of benefits, current medical records, names of witnesses, etc. no later than ten days before MSC or trial at the WCAB.

Application

All litigated claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Did the TPA evaluate the value of the case?
2. Did the TPA provide settlement recommendations?
3. Was an accounting of benefits provided?
4. Was a lien affidavit completed?
5. Were subpoenas issued?
6. Did examiner provide necessary testimony?
7. Did TPA provide all request information to defense counsel?

PERFORMANCE AUDIT CRITERIA

Legal / Litigation**Award Paid Timely?****Program Reference:** H 4**Weight Factor:** 3**Definition**

All payment requests subsequent to an award are processed within 14 days of receipt or earlier. Subsequent payments are paid in accordance with the Labor Code and the award.

Instruction to Auditor

Determine if the TPA submitted payment requests of all benefits due under an award of the Workers' Compensation Appeal Board in a timely manner.

Application

All claims with awards issued by the Workers' Compensation Appeals Board.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. On what date was the award received by the TPA?
2. Did the TPA submit payment requests within 14 days of the date the award was approved?
3. If the award was received late from defense counsel, did the TPA make a good-faith effort to make payment in accordance with labor code and WCAB rules and regulations?
4. Did the TPA take action to avoid a penalty or interest if the award was received late?
5. Was payment of subsequent benefits proper?

PERFORMANCE AUDIT CRITERIA**Return to Work****Work Restriction Letters Accurate?**

Program Reference: 11

Weight Factor: 3

Definition

TPA accurately issued temporary and/or permanent work restrictions letters to the Department based on County policies and procedures.

Instruction to Auditor

Determine if the work restriction letters were accurate based on the relevant medical reports of the primary physician, QME, or AME.

Application

All indemnity claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Were the letters appropriately labeled based on the status of the injured worker?
2. Do the work restrictions documented in the letter(s) properly reflect the findings of the physician?
3. If the letter was based on verbal communication with the physician's office, did the letter reflect this?
4. Among other relevant information, the work restriction letters should also contain:
 - Name of physician
 - Specialty
 - Date of report

PERFORMANCE AUDIT CRITERIA

Return to Work**Work Restriction Letters Timely?**

Program Reference: 12

Weight Factor: 3

Definition

TPA timely issued the temporary and/or permanent work restriction letters based on County policies and procedures.

Instruction to Auditor

Determine if work restriction letters were issued timely upon receipt of pertinent medical documentation.

Application

All indemnity claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Did the TPA issue a work restriction letter within ten days of pertinent medical documentation?
2. If clarification was needed from the physician's office, was the request made timely?
3. Is there documentation in the file to show that the TPA made attempts to facilitate an early return-to-work?

PERFORMANCE AUDIT CRITERIA

Return to Work**Supplemental Job Displacement Voucher Appropriate?**

Program Reference: 13

Weight Factor: 2

Definition

TPA appropriately issued accurate notice of eligibility, supplemental job displacement voucher, and payment for services based on statutory requirements.

Instruction to Auditor

Determine if TPA complied with all statutes and regulations relating to the supplemental job displacement voucher.

Application

All lost time claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Did the employee return to regular, modified, or alternate work as defined in LC 4658.1?
2. Did the employee deny a job offer made pursuant to LC 4658.6?
3. Did the voucher contain the correct monetary value based on the PD awarded and the date of injury?

PERFORMANCE AUDIT CRITERIA

Return to Work**Supplemental Job Displacement Voucher Timely?**

Program Reference: 14

Weight Factor: 2

Definition

TPA timely issued notice, supplemental job displacement voucher, and payment of services.

Instruction to Auditor

Determine if the TPA complied with the time frames of all statutes and regulations as well as County policy regarding payments.

Application

All lost time cases.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Was a notice of eligibility issued timely based on the relevant statute?
2. Was a voucher issued timely based on the relevant statute?
3. Was payment made timely upon receipt of supporting documentation and the relevant statute?

PERFORMANCE AUDIT CRITERIA

Medical-Only**M.O. Determination Correct?**

Program Reference: J 1

Weight Factor: 2

Definition

The claim is appropriately classified as medical-only in accordance with County policy.

Instruction to Auditor

Determine if the decision to establish this claim as a medical-only claim was proper.

Application

Medical-only claims.

Factors to be Considered

The Auditor may consider the following when evaluating this audit item:

1. Is temporary total disability an issue?
2. Is permanent partial disability an issue?
3. Does the nature or extent of medical treatment warrant the additional expertise of an examiner?
4. Is there a question of extensive future medical care?
5. Does the decision adhere to County guidelines?

Additional Instructions

It is acceptable to have a medical-only claim with "S".

CONTRACT DISCREPANCY REPORT

To:

From:

Date Prepared: _____

Date Returned to Contractor: _____

Date Action Completed: _____

Discrepancy Problems:

Signature of County Representative

Date

Contractor Response (Cause and Corrective Auction):

Signature of Contractor Representative

Date

County Evaluation of Contractor Response:

Signature of County Representative

Date

County Action:

County Representative Signature and Date: _____

County Representative Signature and Date: _____

AUTHORITY LEVELS

Personnel	Negotiations	Payment
CCA – CEO*	\$75,000+	\$75,000+
QAE Monitor – CEO	\$75,000	\$75,000
TPA Manager or Qualified Designee	\$20,000	\$7,500
TPA Supervisor	\$10,000	\$5,000
TPA Examiner	\$5,000	\$4,000
TPA Claims Assistant	0	\$1,000

* Lump Sum Settlements (Compromise & Release Agreements & Structured Settlements) exceeding \$100,000 must be approved by the County Risk Manager.

No County employee shall have access to his/her workers' compensation claim file unless authorized by the County Risk Manager and County Counsel. County employees shall not, **on behalf of the County**, negotiate or authorize payments related to their workers' compensation claim.

DISTRIBUTION:

- Third Party Administrator (TRISTAR Risk Management)
- County Counsel
- QAEs
- Quality and Productivity Commission
- Chief Executive Office – Budget and Fiscal Services
- Chief Executive Office – Information Technology Services

SAMPLE BUDGET SHEET

Name:		XXXXXXX, XXXXXX			Claim #:		1000-92-XXXX	
Injury Date:		#####			Out of Service / Retirement Date:			
					Abstract Date:		5/8/1998	
(Attach abstract to Balance Sheet)								
TD, VRTD, VRMA #wks	Rate	From Date	Through Date	Pay Cat	= Total	Benefit	Amount	
33 6/7	336	1/17/1992	9/9/1992	26	11,376.00	Indemnity	37,719.54	
3 6/7	336	12/5/1992	12/31/1992	26	1,296.00	Rehab	8,999.38	
17 1/7	336	1/1/1993	4/30/1993	26	5,760.00	Pending	0	
						Total on Abstract:	46718.92	
4 1/7	336	6/2/1994	6/30/1994	26	1,392.00	Being Paid Now:		
15 1/7	406	7/1/1994	10/14/1994	26	6,148.00	Injured	288.2	
41 4/7	246	10/15/1994	8/1/1995	26	10,226.57	Attorney		
7 2/7	422.16	8/2/1995	9/21/1995	26	3,075.74	Other		
					Sub Total \$	39,274.31		
P.D.	20%					Internal Correction:	-168	
						Internal Correction:	-788.8	
	70.50	140			Sub Total \$	9,870.00		
Compromise and Release					Sub Total \$		Internal Correction:	956.8
L.P. start:							Sub-total	288.2
					Sub Total \$			
Interest							PD Remaining:	
Saved (-)							6.5 wks @ \$140	910
Paid (+)							LP Remaining	0
Penalty (+)							Rehab Atty Fees W/H: @ 12%	\$1,227.19
Interest/Penalty (+/-)					Sub Total \$			
Other (explain)								
PDAs, etc. (+/-)					Sub Total \$			
Overpayments (+/-)					Sub Total \$			
					Total \$	49144.31	Total \$	49144.31

CLAIM STATUS REPORT



Claim Status Report

For: (Department)
By: (TPA)

Employee:

Claims Examiner:

Employee Number:

Examiner Telephone Number:

Claim Number:

Examiner E-Mail Address:

Date of Injury:

Date of Report:

Injury and Cause:

Disability & Medical Treatment:

Litigation Status:

Issues & Exposures:

COUNTY OF LOS ANGELES WORKERS' COMPENSATION PROGRAM THIRD PARTY ADMINISTRATOR DEPARTMENT ASSIGNMENTS UNIT 3	
DEPT. NUMBER	COUNTY DEPARTMENT
035	Museum of Art
050	Auditor Controller
055	Department of Beaches and Harbors
060	Chief Executive Office
061	Board of Supervisors
063	Office of Affirmative Action
068	Commission on Human Relations
080	Chief Information Office
100	Department of Human Resources
101	Office of Public Safety
300	Internal Services
310	County Clerk - Superior Court
340	Coroner
360	County Counsel
370	District Attorney
371	Child Support DA
390	Fire Department
440	Museum of Natural History
461	Public Library
600, 614 & 615	Parks and Recreation
670	Public Defender
675	Alternate Public Defender
771	Office of Ombudsman
815	Grand Jury
841, 842 & 843	Superior Court

CHIEF EXECUTIVE OFFICE
 WORKERS' COMPENSATION CLAIMS THIRD-PARTY ADMINISTRATION
 FY 2014-15
 PROP A COST ANALYSIS - TRISTAR RISK MANAGEMENT - UNIT 3

CONTRACTOR COSTS					COUNTY COSTS								
CLASSIFICATION	(A)	(B)	(C)	(D)	(E)	ITEM NO.	CLASSIFICATION ²	(F)	(G)	(H)	(I)	(J)	(K)
	NO. OF POSITIONS ¹	ANNUAL SALARIES ¹	ANNUAL EMPLOYEE BENEFITS	ANNUAL EMPLOYEE PAYROLL TAXES	TOTAL SALARIES & EB			STAFFING BASED ON PWH ³	ANNUAL SALARIES ⁴ (Mthly Salary*12*F)	APPLICABLE BONUSES ⁵ (Empl. MOU)	TOP STEP VARIANCE ⁶ (G*94.3184%)	EMPLOYEE BENEFITS ⁷ (I*45.15%)	TOTAL ANNUAL S&EB (H+I+J)
TRISTAR RISK MANAGEMENT													
CONTRACT MANAGER	1	\$ 107,496.00			\$ 107,496.00	0845A	MANAGER, CEO	1	\$ 164,904.48	\$ -	\$ 155,535.27	\$ 70,224.17	\$ 225,759.44
QUALITY ASSURANCE MANAGER	1	\$ 84,996.00			\$ 84,996.00	0818A	PROGRAM SPECIALIST IV, CEO	1	\$ 111,996.00	\$ -	\$ 105,632.84	\$ 47,693.23	\$ 153,326.06
SUPERVISOR	7	\$ 88,002.00			\$ 616,014.00	0818A	PROGRAM SPECIALIST IV, CEO	7	\$ 783,972.00	\$ -	\$ 739,429.85	\$ 333,852.58	\$ 1,073,282.42
SENIOR CLAIMS EXAMINER	39	\$ 74,052.00			\$ 2,888,028.00	0817A	PROGRAM SPECIALIST III, CEO	41	\$ 3,902,411.16	\$ -	\$ 3,680,691.77	\$ 1,661,832.33	\$ 5,342,524.10
FUTURE MEDICAL EXAMINER	1	\$ 67,500.00			\$ 67,500.00	0816A	PROGRAM SPECIALIST II, CEO	1	\$ 80,882.16	\$ -	\$ 76,286.76	\$ 34,443.47	\$ 110,730.23
MEDICAL ONLY EXAMINER	1	\$ 52,254.00			\$ 52,254.00	0816A	PROGRAM SPECIALIST II, CEO	1	\$ 80,882.16	\$ -	\$ 76,286.76	\$ 34,443.47	\$ 110,730.23
CLAIMS ASSISTANT	20	\$ 36,162.00			\$ 723,240.00	1140A	SENIOR CLERK	21	\$ 913,590.72	\$ -	\$ 861,684.15	\$ 389,050.39	\$ 1,250,734.54
CLERICAL STAFF	8	\$ 27,000.00			\$ 216,000.00	1136A	CLERK	8	\$ 232,416.00	\$ -	\$ 219,211.05	\$ 98,973.79	\$ 318,184.84
Labor Costs	78	\$ 537,462.00			\$ 4,755,528.00	Labor Costs		81	\$6,271,054.68	\$ -	\$ 5,914,758.44	\$ 2,670,513.43	\$ 8,585,271.87
Employee Benefits & Payroll Taxes			\$ 746,347.92	\$ 464,208.00	\$ 1,210,555.92	Employee Benefits & Payroll Taxes							
ANNUAL LABOR COSTS	78	\$ 537,462.00	\$ 746,347.92	\$ 464,208.00	\$ 5,966,083.92	ANNUAL LABOR COSTS		81	\$6,271,054.68	\$0.00	\$5,914,758.44	\$2,670,513.43	\$8,585,271.87
ANNUAL SUPPLIES AND SERVICES COSTS					\$ 1,150,260.00	ANNUAL SUPPLIES AND SERVICES COSTS⁸							\$918,118.74
ANNUAL INDIRECT COSTS					\$ 1,028,928.00	ANNUAL INDIRECT COSTS⁹							\$0.00
ANNUAL PROFIT (6%)					\$ 488,716.32	ANNUAL PROFIT							\$0.00
TOTAL ANNUAL COSTS	78	\$ 537,462.00	\$ 746,347.92	\$ 464,208.00	\$ 8,633,988.24	TOTAL ANNUAL COSTS		81	\$6,271,054.68	\$0.00	\$5,914,758.44	\$2,670,513.43	\$9,503,390.61

TOTAL ESTIMATED AVOIDABLE COSTS:	\$9,503,390.61
TOTAL ESTIMATED CONTRACT COSTS:	<u>\$8,633,988.24</u>
ESTIMATED SAVINGS FROM CONTRACTING:	<u>\$869,402.37</u>
ESTIMATED SAVINGS PERCENTAGE:	9.15%

FOOTNOTES:

- (1) We obtained the number of positions and salaries from the Contractor's Budget Sheet (i.e., Exhibit 13).
- (2) We determined the County staff classifications based on the Contractor's Budget Sheet (i.e., Exhibit 13). We compared the titles/responsibilities of each staff and their monthly salary to the Department of Human Resources' (DHR) Class Specifications and Class and Salary Listing. Based on this comparison, we selected the County position that was comparable to the Contractor's position.
- (3) We obtained the County Annual Productive Work Hours (1760) from the A-C Accounting Division website (<http://auditorweb.co.la.ca.us/Auditor-Controller/Accounting/Cost%20Accounting>). We used the FY 2014-15 rate since it was the most current rate as of May 2015. The Productivity Factor rate was calculated as follows: 1852 Contractor Annual Productive Work Hours / 1,760 County Annual Productive Work Hours = 1.0523 (See PWH Calculations Tab for more information). In addition, we rounded the staffing levels to nearest whole number since the County does not hire part-time employees for these services.
- (4) The salary rates are based on the DHR's Class and Salary Listings as of April 1, 2015 (<http://cao.lacounty.gov/pdf/alpha.pdf>).
- (5) The employees do not qualify for any bonuses that should be included in this analysis.
- (6) The Top Step Variance Factors for FY 2014-15 were obtained from A-C Accounting. The Top Step Variance Factor for CEO is 94.3184%.
- (7) We used the FY 2014-15 Budgeted Employee Benefits (EB) Rate obtained from Rick Vandenberg of A-C Accounting. In addition, we determined the avoidable EB rate by subtracting Retirement Debt Services, Unemployment Insurance, Retiree Insurance, and Disability from the total EB percentage. The avoidable EB rate for CEO is 45.15%.
- (8) For 81 employees, the County would incur costs totaling \$918,118.74 for Services and Supplies. See "S&S Cost" for detailed information.
- (9) The County would not incur incremental indirect costs since they are absorbed by existing County resources.
- (10) Contractor's pricing is based on an annual flat fee for the three (3) year contract agreement. The contract remains cost effective through year three.
- (11) The annual flat fee for each contract may also be increased or reduced pursuant to performance incentives which are determined based on the annual claims administration performance audit. At the County's sole discretion, mutually beneficial performance and financial incentives are applied where the base could be increased or reduced up to 4.5%. In addition, if subrogation recoveries during a contract year exceed recoveries from the prior year, the base could be increased by 0.5%, subject to a maximum of 50% of the increased recovery dollars. Also, if examiner staffing levels do not meet requirements in the Statement of Work, there will be a \$7,000 reduction for each aggregate 30 calendar days a position is vacant.