

**Substance Use Prevention, Treatment, and Recovery Services Block Grant (SUBG) State Fiscal Years 2024-25 and 2025-26 Program Specifications**

I. Services

1. Formation and Purpose

Pursuant to United States Code (USC), Title 42, section 300x et seq., the State of California has been awarded the federal Substance Use Prevention, Treatment and Recovery Services Block Grant funds (known as SUBG). County Alcohol and Other Drug Programs utilize SUBG funding to provide a broad array of alcohol and other drug program treatment and prevention services within their system of care (SOC) programs.

County shall submit its Request for Application (RFA) responses and required documentation specified in Department of Health Care Services (DHCS) RFA to receive SUBG funding. County shall complete its RFA responses in accordance with the instructions, enclosures, and attachments. Revision of existing, or incorporation of new instructions, enclosures, and attachments into this Agreement shall not require a formal amendment of the county's performance contract.

If the county applies for, and DHCS approves its request to receive SUBG funds, the RFA, county's RFA responses and required documentation, and DHCS' approval constitute provisions of this Agreement and are incorporated by reference to the county's performance contract, as required and defined by Welfare and Institutions Code (WIC) sections 5650, subd. (a), 5651, 5897, and California Code of Regulations (CCR), Title 9, section 3310. County shall comply with all provisions of the RFA and the County's RFA responses.

A. Control Requirements

1. Performance under the terms of this Enclosure is subject to all applicable federal and state laws, regulations, and standards. In accepting DHCS drug and alcohol SUBG allocation pursuant to Health and Safety Code (HSC) Sections 11814(a) and (b), County shall: (i) establish, and shall require its subcontractors to establish, written policies and procedures consistent with the control requirements set forth below; (ii) monitor for compliance with the written procedures; and (iii) be accountable for audit exceptions taken by DHCS against the County and its subcontractors for any failure to comply with these requirements:
  - a. HSC Division 10.5, Part 2 commencing with Section 11760, State Government's Role to Alleviate Problems Related to the Inappropriate Use of Alcoholic Beverages and Other Drug Use.
  - b. HSC Division 10.5, Part 2, Chapter 7.1 Certification of Alcohol and Other Drug Programs commencing with Section 11832.
  - c. CCR, Title 9, Division 4, commencing with Chapter 1 (herein referred to as Title 9).

- d. Government Code (GC), Title 2, Division 4, Part 2, Chapter 2, Article 1.7, Federal Block Grant Funds.
- e. GC, Title 5, Division 2, Part 1, Chapter 1, Article 7, Federally Mandated Audits of Block Grant Funds Allocated to Local Agencies, commencing with Section 53130.
- f. United State Code (USC), Title 42, Chapter 6A, Subchapter XVII, Part B, Subpart ii, commencing with Section 300x-21, Block Grants for Prevention and Treatment of Substance Use.
- g. Code of Federal Regulations (CFR), Title 45, Part 75, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- h. Title 45, CFR Part 96, Block Grants.
- i. Title 42, CFR Part 2, Confidentiality of Substance Use Disorder Patient Records.
- j. Title 42, CFR, Part 8, Medication Assisted Treatment for Opioid Use Disorders.
- k. CFR, Title 21, Chapter II, Drug Enforcement Administration, Department of Justice.
- l. State Administrative Manual (SAM), Chapter 7200, General Outline of Procedures.

County shall be familiar with the above laws, regulations, and guidelines and shall assure that its subcontractors are also familiar with such requirements.

2. The provisions of this Enclosure are not intended to abrogate any provisions of law or regulation, or any standards existing or enacted during the term of this Agreement.
3. County shall adhere to the applicable provisions of Title 45, CFR, Part 75 and Part 96 in the expenditure of SUBG funds.
4. County and all its subcontractors that provide outpatient SUD treatment services shall obtain Alcohol and Other Drug (AOD) Program Certification by January 1, 2025 through DHCS' Licensing and Certification Division. This new requirement has been set forth in accordance with a recent update to Cal. Health & Safety Code § 11832 for all outpatient SUD treatment programs that provide SUD treatment services.
5. County and all its subcontractors shall comply with the AOD Program Certification Standards for all outpatient Substance Use Disorder (SUD) treatment programs. [Alcohol and other Drug Program Certification Standards](#)

## 2. General Provisions

### A. Restrictions on Salaries

County agrees that no part of any federal funds provided under this Agreement shall be used by the county or its subcontractors to pay the salary and wages of an individual at a rate in excess of Level II of the Executive Schedule, as found online at:

[https://grants.nih.gov/grants/policy/salcap\\_summary.htm](https://grants.nih.gov/grants/policy/salcap_summary.htm)

### B. Prevention Set-Aside

The SABG regulation defines “Primary Prevention Programs” as those programs “directed at individuals who have not been determined to require treatment for substance abuse” (45 CFR 96.121), and “a comprehensive prevention program which includes a broad array of prevention strategies directed at individuals not identified to be in need of treatment” (45 CFR 96.125). Primary prevention includes strategies, programs, and initiatives which reduce both direct and indirect adverse personal, social, health, and economic consequences resulting from problematic Alcohol and Other Drug (AOD) availability, manufacture, distribution, promotion, sales, and use. The desired result of primary prevention is to promote safe and healthy behaviors and environments for individuals, families, and communities. The County shall expend not less than its allocated amount of the SABG Primary Prevention Set-Aside funds on primary prevention activities as described in the SABG requirements (45 CFR 96.125).

For the Primary Prevention portion of the SUBG Application, the county is required to submit the enclosed two-part application template that includes:

#### 1. **Part 1-** SUBG Prevention Logic Model

The Logic Model is part of the Prevention portion of the SUBG application. The logic model must clearly describe the program's goals, or intended outcomes, and the steps necessary to achieve them under the theory of change. DHCS will only approve logic models that are complete and demonstrate that the County utilized the theory of change.

Guidance can be found at: <https://www.ca-cpi.org/wp-content/uploads/2022/04/SPP-Workbook-2021.pdf>

The Prevention 101 webinar on Logic Models through Advance Behavioral Health California. To register for the Logic Model webinar, please visit: [https://events-na6.adobeconnect.com/content/connect/c1/1417634307/en/events/event/shared/1462546707/event\\_registration.html?sco-id=1714096220& charset =utf-8](https://events-na6.adobeconnect.com/content/connect/c1/1417634307/en/events/event/shared/1462546707/event_registration.html?sco-id=1714096220& charset =utf-8)

Prevention Programs/Services list that identifies the programs and services the county plans to implement. The list should indicate the responsible agency for each program or service.

## 2. **Part 2:** Primary Prevention Workbook

Tabs 1 and 2 (Primary Prevention Budget SFY 2024-25 and SFY 2025-26) – The Primary Prevention Budget must report all salaries for positions directly and indirectly supporting the county prevention program, subcontracts including those subcontracted to perform primary prevention services, and other direct and indirect costs proposed to support the county primary prevention program.

Tab 3 (Discretionary funds for Prevention) – This tab will only be completed if the county elects to support its prevention program with SUBG Discretionary funds. The Discretionary Tab for Prevention requires the county to report a summary of all salaries for county-level prevention staff, prevention subcontractors, and other costs from the SUBG Discretionary funds proposed to support the county's prevention program. The budget details for Tab 3 can be extracted from the SUBG SFY 2024-25 and SFY 2025-26 General County Workbooks within the SUBG General Allocation application package.

Please note: The dollar amount indicated on the Discretionary for PV (Tab 3) must align exactly with the dollar amount listed in the SUBG General County Workbooks.

## C. Perinatal Practice Guidelines

County shall comply with the perinatal program requirements as outlined in the Perinatal Practice Guidelines as listed online:  
<https://www.dhcs.ca.gov/individuals/Pages/Perinatal-Services.aspx>

The county shall comply with the current version of these guidelines until new Perinatal Practice Guidelines are established and adopted. County must adhere to the Perinatal Practice Guidelines, regardless of whether the county exchanges perinatal funds for additional discretionary funds.

- D. Funds identified in this Agreement shall be used exclusively for county alcohol and drug use services to the extent activities meet the requirements for receipt of federal block grant funds for prevention and treatment of substance use described in subchapter XVII of Chapter 6A of Title 42, the USC.
- E. Room and Board for Transitional Housing, Recovery Residences, and Drug Medi-Cal Organized Delivery System (DMC-ODS) Residential Treatment County may use SUBG discretionary funds, or SUBG perinatal funds (for perinatal beneficiaries only), to cover the cost of room and board of residents in short term (up to 24 months) transitional housing and recovery residences.

SUBG discretionary funds, or SUBG perinatal funds (for perinatal beneficiaries only), may also be used to cover the cost of room and board of residents in DMC-ODS residential treatment facilities. For specific guidelines on the use of

SUBG funds for room and board, please refer to the SUBG Policy Manual.

## F. Cost-Sharing Assistance

### 1. Definition

“Cost-sharing” means the share of costs paid out of pocket by an individual. Block grant funds may be used to cover health insurance deductibles, coinsurance, and copayments, or similar charges to assist eligible individuals in meeting their cost-sharing responsibilities. Cost-sharing assistance does not include premiums, balance billing amounts for non-network providers, or the cost of non-covered services.

### 2. Cost-Sharing Assistance Procedures and Policies

- a. Cost-sharing assistance for private health insurance with SUBG may only be used with a DHCS-approved SUBG County Application.
- b. To utilize cost-sharing assistance, providers must be a subrecipient of block grant funds, and cost sharing must be a block grant authorized service.
- c. Providers must have policies and procedures for cost-sharing assistance for private health insurance, to include how individuals will be identified as eligible, how cost sharing will be calculated, and how funding for cost sharing will be managed and monitored.
- d. Mechanisms must be in place to verify insurance coverage and applicable deductibles or coinsurance, or copayment parameters and amounts applicable to that policy before insurance participation.
- e. Cost-sharing assistance must be authorized in the networks' provider contract, for helping individual clients pay for cost sharing for SUBG authorized services, if appropriate and cost effective.
- f. Providers shall take into consideration the availability of other sources of funding for medical coverage (e.g., Medi-Cal, CHIP, workers compensation, Social Security Income (SSI), Medicare, and Veterans Affairs (VA)) and cost-sharing assistance when determining how to operationalize a cost-sharing assistance program.

- g. Providers must have the ability to determine the cost-sharing amounts for deductibles, coinsurance, and copayments to assist eligible clients in meeting their cost-sharing responsibilities under a health insurance or benefits program.
- h. Payments are to be made directly to the provider of service. It is prohibited to make cash payments to intended recipients of health services.
- i. Providers must be able to determine if the individual is eligible for cost-sharing assistance and the allowable amount.
- j. Facilities providing SUD services to individuals seeking SUBG-funded cost-sharing support must maintain a contract with county. All reimbursements to the provider are to be based on the standard contracted rate with that facility, not the rate reimbursed to the provider from the insurance carrier.

### 3. Individual Financial Eligibility

- a. Document the evidence that an individual's gross monthly household income is at or below 138% of the Federal Poverty Level (FPL) Guidelines.
- b. Conduct an inquiry regarding each individual's continued financial eligibility no less than once each month.
- c. Document the evidence of each financial screening in individual's records.

### 4. Individual Cost-Sharing Allowable Amount

- a. Individual's insurance deductible for block grant authorized services is allowable only when the provider is able to determine the balance of the deductible owed. The provider may request the individual contact their insurer upon check-in to confirm the deductible amount owed. Payments for an insured client are applied to the actual cost of treatment, up to, but not to exceed the amount of the deductible obligation or the treatment provided, whichever is less. Payment towards a deductible cannot be paid outside of the direct payment for treatment nor exceed the cost of treatment provided.
- b. Individual's coinsurance for block grant authorized services is allowable only when the provider is able to verify the coinsurance amount.

- c. Individual's insurance copayment for block grant authorized services is allowable only when the provider is able to determine the copayment amount. The amount of the copayment shall not exceed the total cost of behavioral health service.
- d. Providers must document the evidence of each deductible, coinsurance, and copayment amount in an individual's records.
- e. Insurance deductibles are generally applicable to the calendar year. The potential exists for an individual to seek financial assistance from SUBG funds for deductibles applicable to two separate insurance periods during a fiscal period. All the above requirements apply to lending support for multiple requests of assistance in a fiscal period.

## 5. Monitoring

- a. Counties will perform oversight of contracted providers to ensure compliance with the terms set forth in this Enclosure. Additionally, counties shall submit an annual report at the end of each state fiscal year in conjunction with the final quarterly invoice, which shall contain the following information:
  - i. A list of contracted providers who have received cost-sharing funds;
  - ii. The number of individuals provided cost-sharing assistance; and
  - iii. The total dollars paid for cost sharing.
- b. DHCS will monitor the counties' corresponding policy and cost sharing records in respect to contracted provider monitoring with the appropriate recommendations, findings, or corrective action required in performance improvement projects.

## G. Syringe Services Programs (SSPs)

### 1. Procedures and Policies

- a. California permits counties to use up to forty percent of their total SFY SUBG discretionary allocation to support existing SSPs, or to establish a new SSP.
- b. County use of SUBG funds to support SSPs is voluntary.
- c. Participating counties must comply with all relevant block grant laws and regulations. Participating counties must submit a program narrative for the SSP. In addition, counties must submit the attestation and certification forms included in Enclosure 6, and follow all additional federal laws and regulations concerning SSPs as detailed in Enclosure 6.

### 2. Claiming Reimbursement for SSP Expenses

- a. DHCS will provide counties service codes for SSP-related expenditures upon release of the first SUBG quarterly invoice each SFY. Counties must use SSP service codes to record all such expenditures in their quarterly invoices throughout the SFY. Note: Service Code 20 may not be used for SSP-related services. As with other SUBG service codes used in quarterly invoices, the SSP service codes must also be used in the SUD Cost Reporting System for final settlement of county SUBG costs.

### 3. Oversight

- a. DHCS will continue to monitor counties and participating programs to ensure compliance with block grant laws and regulations, and SSP-specific requirements. These laws and regulations are inclusive of 45 CFR §96.128, 45 CFR §96.135 regarding restrictions on grant expenditures, and 45 CFR §96.137 regarding payment.

### H. Restrictions on Use of SUBG Funds to Pay for Services Reimbursable by Medi-Cal

1. The county shall not utilize SUBG funds to pay for a service that is reimbursable by Medi-Cal.
2. The county may utilize SUBG funds to pay for a service included in the California State Plan or the Drug Medi-Cal Organized Delivery System (DMC-ODS), but which is not reimbursable by Medi-Cal.
3. If the county utilizes SUBG funds to pay for a service that is included in the California State Plan or the DMC-ODS, the county shall maintain documentation sufficient to demonstrate that Medi-Cal reimbursement was not available.

## 2. Performance Provisions

### A. Monitoring

1. County's performance under the Performance Contract and the SUBG County Application shall be monitored by DHCS during the term of the Performance Contract. Monitoring criteria shall include, but not be limited to:
  - a. Whether the quantity of work or services being performed conforms to Enclosures 2, 3, 4, 5, and 6.
  - b. Whether the county has established and is appropriately monitoring quality standards.
  - c. Whether the county is abiding by all the terms and requirements of this Agreement.
  - d. Whether the county is abiding by the terms of the Perinatal Practice Guidelines.

- e. Whether the county conducted annual onsite monitoring reviews of services and subcontracted services for programmatic and fiscal requirements. County shall submit copy of its monitoring and audit reports to DHCS within two weeks of issuance. Reports shall be sent via MOVEit Secure Managed File Transfer system specified by DHCS.
2. Failure to comply with the above provisions shall constitute grounds for DHCS to suspend or recover payments, subject to the county's right of appeal, or may result in termination of the Agreement, or both.

#### B. Performance Requirements

1. County shall provide services based on funding set forth in this application and under the terms of this agreement.
2. County shall provide services to all eligible persons in accordance with state and federal statutes and regulations. County shall assure that in planning for the provision of services, the following barriers to services are considered and addressed:
  - a. Lack of educational materials or other resources for the provision of services.
  - b. Geographic isolation and transportation needs of persons seeking services or remoteness of services.
  - c. Institutional, cultural, and ethnicity barriers.
  - d. Language differences.
  - e. Lack of service advocates.
  - f. Failure to survey or otherwise identify the barriers to service accessibility.
  - g. Needs of persons with a disability.
3. County shall comply with any additional requirements of the documents that have been incorporated herein by reference, including, but not limited to, those on the list of Documents Incorporated by Reference in Enclosure 4 and, where applicable, Enclosure 6.
4. The funds described in this Enclosure shall be used exclusively for providing alcohol and drug program services.

DHCS shall issue a report to county after conducting monitoring, utilization, or auditing reviews of the county or county subcontracted providers. When the DHCS report identifies non-compliant services or processes, it shall require a Corrective Action Plan (CAP). The county, in coordination with its subcontracted provider, shall submit a CAP to DHCS within the designated timeframe specified by DHCS. The CAP shall be sent by secure, encrypted e-mail to: [SUBGCompliance@dhcs.ca.gov](mailto:SUBGCompliance@dhcs.ca.gov)

5. The CAP shall:

- a. Restate each deficiency.
  - b. List all of actions to be taken to correct each deficiency.
  - c. Identify the date by which each deficiency shall be corrected.
  - d. Identify the individual who will be responsible for correction and ongoing compliance.
6. DHCS will provide written approval of the CAP to the county within 30 calendar days. If DHCS does not approve the CAP submitted by the county, DHCS will provide guidance on the deficient areas and request an updated CAP from the county with a new deadline for submission.
  7. If the county does not submit a CAP, or, does not implement the approved CAP provisions within the designated timeline, then DHCS may withhold funds until the county is in compliance. DHCS shall inform the county when funds will be withheld.

#### C. Sub-recipient Pre-Award Risk Assessment

County shall comply with the sub-recipient pre-award risk assessment requirements contained in 45 CFR 72.205 (HHS awarding agency review of risk posed by applicants). County shall review the merit and risk associated with all potential subcontractors annually prior to making an award.

County shall perform and document annual sub-recipient pre-award risk assessments for each subcontractor and retain documentation for audit purposes.

## II. General

### 1. Additional Restrictions

This Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress, or any statute enacted by the Congress, which may affect the provisions, terms, or funding of this Agreement in any manner.

### 2. Hatch Act

County agrees to comply with the provisions of the Hatch Act (USC, Title 5, Part III, Subpart F., Chapter 73, Subchapter III), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

### 3. No Unlawful Use or Unlawful Use Messages Regarding Drugs

County agrees that information produced through these funds, and which pertains to drugs and alcohol-related programs, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program. Additionally, no aspect of a drug or alcohol-related program shall include any message on the responsible use, if the use is unlawful, of drugs or

alcohol (HSC, Division 10.7, Chapter 1429, Sections 11999-11999.3). By signing this Enclosure, county agrees that it will enforce, and will require its subcontractors to enforce, these requirements.

#### 4. Limitation on Use of Funds for Promotion of Legalization of Controlled Substances

None of the funds made available through this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in Schedule I of Section 202 of the Controlled Substances Act (21 USC 812).

#### 5. Debarment and Suspension

County shall not subcontract with or employ any party listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp. p. 189) and 12689 (3 CFR part 1989., p. 235), "Debarment and Suspension." SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

The County shall advise all subcontractors of their obligation to comply with applicable federal debarment and suspension regulations, in addition to the requirements set forth in 42 CFR Part 1001.

If a county subcontracts or employs an excluded party, DHCS has the right to withhold payments, disallow costs, or issue a CAP, as appropriate, pursuant to HSC Code 11817.8(h).

#### 6. Restriction on Purchase of Sterile Needles

No SUBG funds made available through this Agreement shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug. DHCS has allowed SUBG funds to support existing Syringe Services Programs (SSP) or to establish new SSPs; reference Enclosure 5 for allowable costs related to SSP. **No federal funds can be used to purchase sterile needles or syringes.**

#### 7. Health Insurance Portability and Accountability Act (HIPAA) of 1996

All work performed under this Agreement is subject to HIPAA, county shall perform the work in compliance with all applicable provisions of HIPAA. As identified in Exhibit E, DHCS and county shall cooperate to assure mutual agreement as to those transactions between them, to which this provision applies. Refer to Exhibit E for additional information.

##### A. Trading Partner Requirements

1. No Changes. County hereby agrees that for the personal health information (Information), it will not change any definition, data condition, or use of a data element or segment as proscribed in the Federal Health and Human Services (HHS) Transaction Standard Regulation (45 CFR 162.915 (a)).
2. No Additions. County hereby agrees that for the Information, it will not add

any data elements or segments to the maximum data set as proscribed in the HHS Transaction Standard Regulation (45 CFR 162.915 (b)).

3. No Unauthorized Uses. County hereby agrees that for the Information, it will not use any code or data elements that either are marked “not used” in the HHS Transaction’s Implementation specification or are not in the HHS Transaction Standard’s implementation specifications (45 CFR 162.915 (c)).
  4. No Changes to Meaning or Intent. County hereby agrees that for the Information, it will not change the meaning or intent of any of the HHS Transaction Standard’s implementation specification (45 CFR 162.915 (d)).
- B. Concurrence for Test Modifications to HHS Transaction Standards

County agrees and understands that there exists the possibility that DHCS or others may request an extension from the uses of a standard in the HHS Transaction Standards. If this occurs, county agrees that it will participate in such test modifications.

C. Adequate Testing

County is responsible to adequately test all business rules appropriate to their types and specialties. If the county is acting as a clearinghouse for enrolled providers, county has obligations to adequately test all business rules appropriate to each and every provider type and specialty for which they provide clearinghouse services.

D. Deficiencies

County agrees to correct transactions, errors, or deficiencies identified by DHCS, and transactions errors or deficiencies identified by an enrolled provider if the county is acting as a clearinghouse for that provider. When county is a clearinghouse, county agrees to properly communicate deficiencies and other pertinent information regarding electronic transactions to enrolled providers for which they provide clearinghouse services.

E. Code Set Retention

Both parties understand and agree to keep open code sets being processed or used in this Agreement for at least the current billing period or any appeal period, whichever is longer.

F. Data Transmission Log

Both parties shall establish and maintain a Data Transmission Log which shall record any and all Data Transmissions taking place between the Parties during the term of this Agreement. Each party will take necessary and reasonable steps to ensure that such Data Transmission Logs constitute a current, accurate, complete, and unaltered record of any and all Data Transmissions between the parties, and shall be retained by each Party for no less than twenty-four (24) months following the date of the Data Transmission. The Data Transmission Log may be maintained on computer media or other suitable means provided that, if it is necessary to do so, the information

contained in the Data Transmission Log may be retrieved in a timely manner and presented in readable form.

#### 8. Nondiscrimination and Institutional Safeguards for Religious Providers

County shall establish such processes and procedures as necessary to comply with the provisions of USC, Title 42, Section 300x-65 and CFR, Title 42, Part 54.

#### 9. Counselor Certification

Any counselor or registrant providing intake, assessment of need for services, treatment or recovery planning, individual or group counseling to participants, patients, or residents in a DHCS licensed or certified program is required to be registered or certified as defined in CCR, Title 9, Division 4, Chapter 8.

#### 10. Cultural and Linguistic Proficiency

To ensure equal access to quality care by diverse populations, each service provider receiving funds from this Agreement shall adopt the Federal Office of Minority Health Culturally and Linguistically Appropriate Service (CLAS) national standards as outlined online at: <https://thinkculturalhealth.hhs.gov/clas/standards>

#### 11. Intravenous Drug Use (IVDU) Treatment

County shall ensure that individuals in need of IVDU treatment shall be encouraged to undergo AOD treatment (42 USC 300x-23 (45 CFR 96.126(e)).

#### 12. Tuberculosis Treatment

County shall ensure the following related to Tuberculosis (TB):

- A. Routinely make available TB services to individuals receiving treatment.
- B. Reduce barriers to patients' accepting TB treatment.
- C. Develop strategies to improve follow-up monitoring, particularly after patients leave treatment, by disseminating information through educational bulletins and technical assistance.

#### 13. Trafficking Victims Protection Act of 2000

County and its subcontractors that provide services covered by this Agreement shall comply with the Trafficking Victims Protection Act of 2000 (USC, Title 22, Chapter 78, Section 7104) as amended by section 1702 of Pub. L. 112-239.

#### 14. Tribal Communities and Organizations

County shall regularly review population information available through Census, compare to information obtained in the California Outcome Measurement System for Treatment (CalOMS-Tx) to determine whether the population is being reached, and survey Tribal representatives for insight in potential barriers to the substance use service needs of the American Indian/Alaskan Native (AI/AN) population within

the county geographic area. County shall also engage in regular and meaningful consultation and collaboration with elected officials of the tribe, Rancheria, or their designee for the purpose of identifying issues/barriers to service delivery and improvement of the quality, effectiveness, and accessibility of services available to AI/AN communities within the county.

#### 15. Marijuana Restriction

Grant funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Grant funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders. See, e.g., 45 CFR. § 75.300(a) (requiring HHS to “ensure that Federal funding is expended . . . in full accordance with U.S. statutory . . . requirements.”); 21 USC § 812(c) (10) and 841 (prohibiting the possession, manufacture, sale, purchase or distribution of marijuana). This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the DEA and under an FDA-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under Federal law.

#### 16. Participation of County Behavioral Health Director’s Association of California

The County AOD Program Administrator shall participate and represent the county in meetings of the County Behavioral Health Director’s Association of California for the purposes of representing the counties in their relationship with DHCS with respect to policies, standards, and administration for AOD abuse services.

The County AOD Program Administrator shall attend any special meetings called by the Director of DHCS. Participation and representation shall also be provided by the County Behavioral Health Director’s Association of California.

#### 17. Adolescent Best Practices Guidelines

County must utilize DHCS guidelines in developing and implementing youth treatment programs funded under this Enclosure. The Adolescent Best Practices Guidelines can be found at:  
[https://www.dhcs.ca.gov/Documents/CSD\\_CMHCS/Adol%20Best%20Practices%20Guide/AdolBestPracGuideOCTOBER2020.pdf](https://www.dhcs.ca.gov/Documents/CSD_CMHCS/Adol%20Best%20Practices%20Guide/AdolBestPracGuideOCTOBER2020.pdf)

#### 18. Byrd Anti-Lobbying Amendment (31 USC 1352)

County certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. County shall also disclose to DHCS any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

#### 19. Nondiscrimination in Employment and Services

County certifies that under the laws of the United States and the State of California, county will not unlawfully discriminate against any person.

20. Federal Law Requirements:

- A. Title VI of the Civil Rights Act of 1964, Section 2000d, as amended, prohibiting discrimination based on race, color, or national origin in federally-funded programs.
- B. Title VIII of the Civil Rights Act of 1968 (42 USC 3601 et seq.) prohibiting discrimination on the basis of race, color, religion, sex, handicap, familial status or national origin in the sale or rental of housing.
- C. Age Discrimination Act of 1975 (45 CFR Part 90), as amended 42 USC Sections 6101 – 6107), which prohibits discrimination on the basis of age.
- D. Age Discrimination in Employment Act (29 CFR Part 1625).
- E. Title I of the Americans with Disabilities Act (29 CFR Part 1630) prohibiting discrimination against the disabled in employment.
- F. Title II of the Americans with Disabilities Act (28 CFR Part 35) prohibiting discrimination against the disabled by public entities.
- G. Title III of the Americans with Disabilities Act (28 CFR Part 36) regarding access.
- H. Section 504 of the Rehabilitation Act of 1973, as amended (29 USC Section 794), prohibiting discrimination on the basis of individuals with disabilities.
- I. Executive Order 11246 (42 USC 2000(e) et seq. and 41 CFR Part 60) regarding nondiscrimination in employment under federal contracts and construction contracts greater than \$10,000 funded by federal financial assistance.
- J. Executive Order 13166 (67 FR 41455) to improve access to federal services for those with limited English proficiency.
- K. The Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse.
- L. Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR Part 2, Subparts A – E).

21. State Law Requirements:

- A. Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (2 CCR 7285.0 et seq.).
- B. Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135.
- C. Title 9, Division 4, Chapter 8 of the CCR, commencing with Section 13000.

- D. No federal funds shall be used by the county or its subcontractors for sectarian worship, instruction, or proselytization. No federal funds shall be used by the county or its subcontractors to provide direct, immediate, or substantial support to any religious activity.

## 22. Additional Restrictions

- A. Noncompliance with the requirements of nondiscrimination in services shall constitute grounds for DHCS to withhold payments under this Agreement or terminate all, or any type, of funding provided hereunder.
- B. This Agreement is subject to any additional restrictions, limitations, or conditions enacted by the federal or state governments that affect the provisions, terms, or funding of this Agreement in any manner.

## 23. Information Access for Individuals with Limited English Proficiency

- A. County shall comply with all applicable provisions of the Dymally-Alatorre Bilingual Services Act (Government Code sections 7290-7299.8) regarding access to materials that explain services available to the public as well as providing language interpretation services.
- B. County shall comply with the applicable provisions of Section 1557 of the Affordable Care Act (45 CFR Part 92), including, but not limited to, 45 CFR 92.201, when providing access to: (a) materials explaining services available to the public, (b) language assistance, (c) language interpreter and translation services, or (d) video remote language interpreting services.

## 24. Subcontract Provisions

County shall include all of the foregoing Part II general provisions in all of its subcontracts. These requirements must be included verbatim in contracts with subrecipients and not through documents incorporated by reference.

## III. Reporting Requirements

County agrees that DHCS has the right to withhold payments until county has submitted any required data and reports to DHCS.

### 1. The county shall complete the following:

#### A. SUBG Invoice.

DHCS will distribute updated SUBG Invoice Templates, instructions and tools to counties via email at least 30 days prior to the end of each quarter throughout the state fiscal year (SFY). The county shall complete the SUBG Invoice accurately reflecting the county's actual expenditures during the quarter identified on the template, sign the certification, and submit both an excel and a PDF version of the signed SUBG Invoice to DHCS at [SUBG@dhcs.ca.gov](mailto:SUBG@dhcs.ca.gov). The county shall submit a SUBG Invoice no later than 45 days after the end of each quarter.

**B. SUBG Quarterly Ledger Detail**

DHCS will distribute updated SUBG General Ledger Templates, instructions, and tools to Counties via email at least 30 days prior to the end of each quarter throughout the SFY. The county shall complete the SUBG General Ledger Template accurately, providing the requested information to support the SUBG Invoice totals, and submit an EXCEL version of the SUBG General Ledger to DHCS at [SUBG@dhcs.ca.gov](mailto:SUBG@dhcs.ca.gov). The county shall submit a SUBG General Ledger no later than 45 days after the end of each quarter.

**2. California Outcomes Measurement System for Treatment (CalOMS-Tx)**

The CalOMS-Tx business rules and requirements are:

- A. County shall internally comply with the CalOMS-Tx data collection system requirements for submission of CalOMS-Tx data or contract with a software vendor that does. If applicable, a Business Associate Agreement (BAA) shall be established between the County and the software vendor, and the BAA shall state that DHCS is allowed to return the processed CalOMS-Tx data to the vendor that supplied the data to DHCS.
- B. County shall conduct information technology (IT) systems testing and pass State certification testing before commencing submission of CalOMS-Tx data. If the County subcontracts with a vendor for IT services, County is responsible for ensuring that the subcontracted IT system is tested and certified by the DHCS prior to submitting CalOMS-Tx data. If county changes or modifies the CalOMS-Tx IT system, then county shall re-test and pass state re-certification prior to submitting data from the new or modified system.
- C. Electronic submission of CalOMS-Tx data shall be submitted by county within 45 days from the end of the last day of the report month.
- D. County shall comply with data collection and reporting requirements established by the DHCS CalOMS-Tx Data Collection Guide (<https://www.dhcs.ca.gov/provgovpart/Pages/CalOMS-Treatment.aspx>) and all former Department of Alcohol and Drug Programs Bulletins and DHCS Information Notices relevant to CalOMS Tx data collection.
- E. County shall submit CalOMS-Tx admission, discharge, annual update, resubmissions of records containing errors or in need of correction, and “provider no activity” report records in an electronic format approved by DHCS.
- F. County shall comply with the CalOMS-Tx Data Compliance Standards established by DHCS for reporting data content, data quality, data completeness, reporting frequency, reporting deadlines, and reporting method, as identified online at: <https://www.dhcs.ca.gov/provgovpart/Pages/CalOMS-Treatment.aspx>
- G. County shall participate in CalOMS-Tx informational meetings, trainings, and conference calls. County staff responsible for CalOMS-Tx data entry must have sufficient knowledge of the CalOMS-Tx Data Quality Standards. All new CalOMS-Tx users, whether employed by the County or its subcontractors, shall

participate in CalOMS-Tx trainings prior to inputting data into the system.

- H. County shall implement and maintain a system that complies with the CalOMS-Tx data collection system requirement for electronic submission of CalOMS-Tx data.
- I. County shall meet the requirements as identified in Exhibit E, Privacy and Information Security Provisions.

### 3. Primary Prevention Substance Use Disorder Data Service

The Primary Prevention Substance Use Disorder Data Service (PPSDS) business rules and requirements are:

- A. Contractors and subcontractors receiving SABG Primary Prevention Set-Aside funding shall input planning, service/activity and evaluation data into the service. When submitting data, County shall comply with the DHCS PPSDS Data Entry User Guide and the PPSDS Data Quality Standards.  
([http://www.dhcs.ca.gov/provgovpart/Documents/Substance%20Use%20Disorder-PPFD/PPSDS\\_Data\\_Quality\\_Standards.pdf](http://www.dhcs.ca.gov/provgovpart/Documents/Substance%20Use%20Disorder-PPFD/PPSDS_Data_Quality_Standards.pdf)).
- B. County shall enter all data for each month no later than the 10<sup>th</sup> day of the following month.
- C. County shall review and verify all data input into the PPSDS meets the DHCS PPSDS Data Entry User Guide and the DHCS Data Quality Standards. Counties shall adhere to the DHCS PPSDS Quarterly Data Review Requirements for Counties.
- D. If County cannot meet the established due dates, a written request for an extension shall be submitted to DHCS Prevention Analyst 10 calendar days prior to the due date and must identify the proposed new due date. Note that extensions will only be granted due to system or service failure or other extraordinary circumstances.
- E. In order to ensure that all persons responsible for prevention data entry have sufficient knowledge of the PPSDS Data Quality Standards, all new users of the service, whether employed by the County or its subcontractors, shall participate in PPSDS training prior to inputting any data.

### 4. System Failures and County Obligations Regarding CalOMS-Tx and PPSDS Reporting Requirements

- A. If the county experiences system or service failure or other extraordinary circumstances of CalOMS-Tx, county shall report the problem in writing by secure, encrypted e-mail to DHCS at: [ITServiceDesk@dhcs.ca.gov](mailto:ITServiceDesk@dhcs.ca.gov).
- B. If the county is unable to submit CalOMS-Tx data due to system or service failure or other extraordinary circumstance, a written notice shall be submitted

prior to the data submission deadline at: [SUDCalomssupport@dhcs.ca.gov](mailto:SUDCalomssupport@dhcs.ca.gov). The written notice shall include a remediation plan that is subject to review and approval by DHCS. A grace period of up to 60 days may be granted, at the State's sole discretion, for the county to resolve the problem before SUBG payments are withheld.

- C. If the county experiences system or service failure or other extraordinary circumstances of PPSDS, the county shall report the problem to the PPSDS Help Desk at (916) 552-8933 or [PrimaryPvSUDDData@dhcs.ca.gov](mailto:PrimaryPvSUDDData@dhcs.ca.gov).
  - D. If the county is unable to submit PPSDS data due to system or service failure or other extraordinary circumstance, a written notice shall be submitted to the assigned DHCS Prevention Analyst prior to the data submission deadline and must identify the proposed new due date.
  - E. If DHCS experiences system or service failure, no penalties will be assessed to the county for late data submission.
  - F. County shall comply with the treatment and prevention data quality standards established by DHCS. Failure to meet these standards on an ongoing basis may result in withholding SUBG funds.
  - G. If the county submits data after the established deadlines, due to a delay or problem, county is still responsible for collecting and reporting data from time of delay or problem.
5. Drug and Alcohol Treatment Access Report (DATAR)

The DATAR business rules and requirements are:

- A. The county shall be responsible for ensuring that the county-operated treatment services and all treatment providers, with whom county makes a contract or otherwise pays for the services, submit a monthly DATAR report in an electronic copy format as provided by DHCS.
- B. The county shall ensure that treatment providers who reach or exceed 90 percent of their dedicated capacity, report this information to [DHCSPerinatal@dhcs.ca.gov](mailto:DHCSPerinatal@dhcs.ca.gov) within seven days of reaching capacity.
- C. The county shall ensure that all DATAR reports are submitted by either county-operated treatment services and by each subcontracted treatment provider to DHCS by the 10th of the month following the report activity month.
- D. The county shall ensure that all applicable providers are enrolled in DHCS' web-based DATARWeb program for submission of data, accessible on the DHCS website when executing the subcontract.

- E. If the County or its subcontractor experiences system or service failure or other extraordinary circumstances that affect its ability to submit a timely monthly DATAR report or meet data compliance requirements, the county shall report the problem in writing by secure, encrypted e-mail to DHCS at: [SUDDATARSupport@dhcs.ca.gov](mailto:SUDDATARSupport@dhcs.ca.gov) before the established data submission deadlines. The written notice shall include a CAP that is subject to review and approval by DHCS. A grace period of up to 60 days may be granted, at DHCS' sole discretion, for the county to resolve the problem before SUBG payments are withheld pursuant to 45 CFR Section 75.371 and HSC Section 11817.8.
- F. If DHCS experiences system or service failure, no penalties will be assessed to county for late data submission.
- G. The county shall be considered compliant if a minimum of 95 percent of required DATAR reports from the county's treatment providers are received by the due date.

#### 6. Charitable Choice

County shall document the total number of referrals necessitated by religious objection to other alternative SUD providers. The county shall annually submit this information to DHCS by e-mail at [CharitableChoice@dhcs.ca.gov](mailto:CharitableChoice@dhcs.ca.gov) by October 1st. The annual submission shall contain all substantive information required by DHCS and be formatted in a manner prescribed by DHCS.

#### 7. Master Provider File (MPF)

The MPF data systems retain SUD provider records for each California county. The MPF Team assists California counties in the management of their SUD provider record information. Current and accurate SUD provider records ensure successful submissions for Drug Medi-Cal (DMC) claims, monthly CalOMS submissions, monthly DATAR submissions, monthly Primary Prevention Services Data System (PPSDS) submissions, and annual fiscal Cost Reports.

The MPF Team will send each county a monthly MPF Report that identifies each county operated or subcontracted SUD provider. All entities receiving public funding must be included on the MPF. Counties are responsible for reviewing the monthly report for accuracy and providing the MPF Team with updates as needed. All updates to existing SUD provider records, or notification of contracts with new SUD providers, must be submitted in writing using the appropriate MPF Forms. Completed forms are emailed to [MPF@dhcs.ca.gov](mailto:MPF@dhcs.ca.gov).

The current MPF Forms can be obtained by emailing a request to [MPF@dhcs.ca.gov](mailto:MPF@dhcs.ca.gov).

For more information, please refer to the DHCS MPF Webpage at: <https://www.dhcs.ca.gov/provgovpart/Pages/Master-Provider-File.aspx>

8. Failure to meet required reporting requirements shall result in:
  - A. A Notice of Deficiency (Deficiencies) issued to county regarding specified providers with a deadline to submit the required data and a request for a CAP to ensure timely reporting in the future. DHCS will approve or reject the CAP or request revisions to the CAP, which shall be resubmitted to the DHCS within 30 days.
  - B. If the county has not ensured compliance with the data submission or CAP request within the designated timeline, then DHCS shall withhold funds until all data is submitted. DHCS shall inform the county when funds will be withheld.

**Substance Use Prevention, Treatment, and Recovery Services Block Grant  
(SUBG) State Fiscal Years 2024-25 and 2025-26 Budget Detail and Payment  
Provisions**

**Part I – General Fiscal Provisions**

**Section 1 – General Fiscal Provisions**

A. Fiscal Provisions

For services satisfactorily rendered, and upon receipt and approval of documentation as identified in Enclosure 2, the Department of Health Care Services (DHCS) agrees to compensate the county for actual expenditures incurred in accordance with the rates and/or allowable costs specified herein.

B. Funding Authorization

The county shall bear the financial risk in providing any substance use disorder (SUD) services covered by this Agreement.

C. Availability of Funds

It is understood that, for the mutual benefit of both parties, this Agreement may have been written before ascertaining the availability of congressional appropriation of funds in order to avoid program and fiscal delays that would occur if this Agreement were not executed until after that determination. If so, DHCS may amend the amount of funding provided for in this Agreement based on the actual congressional appropriation.

D. Expense Allowability / Fiscal Documentation

1. Invoices received from the county and accepted and/or submitted for payment by DHCS shall not be deemed evidence of allowable agreement costs.
2. The county shall maintain, for review, audit, and supply to DHCS, upon request, adequate documentation of all expenses claimed pursuant to this Agreement to permit a determination of expense allowability.
3. If DHCS cannot determine the allowability or appropriateness of an expense because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles, and generally accepted governmental audit standards, all questionable costs may be disallowed and DHCS may withhold payment. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.
4. Costs and/or expenses deemed unallowable shall not be reimbursed or, if mistakenly reimbursed, those costs and/or expenses shall be subject to recovery by DHCS pursuant to California Health and Safety Code (HSC) 11817.8(e).

E. Maintenance of Effort for the Substance Use Prevention, Treatment, and Recovery Services Block Grant

1. Notwithstanding any other provision in this Agreement, the Director of DHCS may reduce Federal funding allocations, on a dollar-for-dollar basis, to a county that has reduced or anticipates reduced expenditures in a way that would result in a decrease in California's receipt of Federal SUBG funds, per United States Code (USC), Title 42, Section 300x-30.
2. Prior to making any reductions pursuant to this subdivision, the Director shall notify all counties that county underspending will reduce the Federal SUBG Maintenance of Effort (MOE). Upon receipt of notification, a county may submit a revision to the budget initially submitted pursuant to HSC Section 11798 subdivision(a) to maintain the statewide SUBG MOE.
3. Pursuant to HSC Section 11814(d)(3), a county shall notify DHCS in writing of proposed local changes to the county's expenditure of funds. DHCS shall review and approve the proposed local changes depending on the level of expenditures needed to maintain DHCS-wide SUBG MOE.

#### F. SUBG Women Services Expenditure Requirement

Pursuant to USC Title 42 Section 300x-22(b) and Code of Federal Regulations (CFR) Title Section 45 96.124(c), for each state fiscal year (SFY), the county shall expend an amount of SUBG funds not less than the amount expended by the county in fiscal year 1994 on perinatal services, pregnant women, and women with dependent children. The county shall expend that percentage either by establishing new programs or expanding the capacity of existing programs.

#### G. Revenue Collection

The county shall conform to revenue collection requirements in HSC Section 11841, by raising revenues in addition to the funds allocated by DHCS. These revenues include but are not limited to, fees for services, private contributions, grants, or other governmental funds. These revenues shall be used to support additional alcohol and other drug services or facilities. Each alcohol and drug program shall set and collect client fees based on the client's ability to pay. The fee requirement shall not apply to prevention and early intervention services. The county shall not collect fees from any beneficiary when Medi-Cal is billed for the same service. The county shall identify the types and amounts of revenues collected in its annual cost report. Cost Report information can be found online at:

[https://www.dhcs.ca.gov/provgovpart/Pages/Fiscal\\_Management.aspx](https://www.dhcs.ca.gov/provgovpart/Pages/Fiscal_Management.aspx)

#### H. Cost Efficiencies

It is intended that the cost to the county in maintaining the dedicated capacity and units of service shall be met by the SUBG funds allocated to the county and other county or subcontractor revenues. Amounts awarded pursuant to Enclosure 2 shall not be used for services where payment has been made or can reasonably be expected to be made under any other state or federal compensation or benefits program or where services can be paid for from revenues.

## Part II – Reimbursements

### Section 1 – General Reimbursement

#### A. Prompt Payment Clause

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

#### B. Amounts Payable

1. The amount payable under this Agreement shall not exceed the amount identified on Enclosure 1. The funds identified for the fiscal years covered by Enclosure 1 are subject to change depending on the availability and amount of funds appropriated by the Legislature and the Federal Government.
2. Reimbursement shall be made for allowable expenses up to the amount annually awarded commensurate with the SFY in which services are performed and/or goods are received.

The funds identified for the fiscal years covered by this Section within this Enclosure are subject to change depending on the availability and amount of funds appropriated by the Legislature and the Federal Government. The amount of funds available for expenditure by the county shall be limited to the amount identified in the final allocations issued by DHCS for that fiscal year or the SUBG amount, whichever is less.

3. For each fiscal year, DHCS may settle costs for services based on the year-end cost settlement report.

### Section 2 – Substance Use Prevention, Treatment, and Recovery Services Block Grant (SUBG)

#### A. Payment Provisions

1. DHCS shall reimburse the county in arrears based upon quarterly invoicing.
2. Quarterly Invoicing-SUBG Invoice and Ledger
  - a. The county shall complete the SUBG Invoice and Ledger as prescribed in Enclosure 2. These quarterly SUBG Invoices and Ledger serve as expenditure reports and invoices for payment. The county shall incur expenditures before receiving payment from its allocation.
  - b. The county shall submit the SUBG Invoice and Ledger describing the preceding quarter's SUBG expenditure by November 15, February 15, May 15, and August 15 of each year. If the date falls on a Saturday, Sunday or holiday, the due date shall be the following business day.
  - c. DHCS shall review the SUBG Invoice and Ledger to ensure that costs are reasonable and do not exceed the county's allocation. Inaccuracies in the

report shall be resolved by the county prior to receiving payment.

3. Pursuant to 45 CFR Section 75.371 and HSC Section 11817.8, DHCS may withhold SUBG payments if the county fails to:
  - a. Submit any forms and reports to DHCS by each due date, including but not limited to, forms required pursuant to Enclosure 2.
  - b. Submit monitoring reports and attest to the completion of Corrective Action Plans or services provided pursuant to this Agreement.
  - c. Monitor its subcontractors pursuant to Enclosure 2.
4. In the event DHCS withholds SUBG payment, the county's payment shall commence with the next scheduled payment following DHCS' receipt and acceptance of complete and accurate reports, data, or executed contract. The payment shall include any funds withheld pursuant to Section 3.

Adjustments may be made to the total Agreement amount, and funds may be withheld from payments otherwise due to the county hereunder, for nonperformance to the extent that nonperformance involves fraud, misuse, or failure to achieve the objectives of the provisions of Enclosure 2.

#### B. Accrual of Interest

Any interest accrued from state-allocated funds and retained by the county shall be used for the same purpose as DHCS-allocated funds from which the interest was accrued.

#### C. Expenditure Period

SUBG funds are allocated based upon the SFY. These funds must be expended for activities authorized pursuant to 42 USC Sections 300x-21 through 300x-66, and Title 45 CFR 96.120 et seq., within the availability period of the grant award. Any SUBG funds that have not been expended by the County at the end of the State fiscal year shall be returned to DHCS.

- D. Counties receiving SUBG funds shall comply with the financial management standards contained in 45 CFR Sections 75.302(b)(1) through (6), and 45 CFR Section 96.30.
- E. Non-profit subcontractors receiving SUBG funds shall comply with the financial management standards contained in 45 CFR Section 75.302(b)(1) through (4) and (b)(7), and 45 CFR Section 96.30.
- F. Counties receiving SUBG funds shall track obligations and expenditures by individual SUBG award, including, but not limited to, obligations and expenditures for primary prevention, services to pregnant women and women with dependent children. "Obligation" shall have the same meaning as used in 45 CFR Section 75.2.

#### G. Restrictions on the Use of SUBG Funds

The county shall not use SUBG funds provided by the Agreement on the following activities:

1. Provide inpatient services.
2. Make cash payments to intended recipients of health services.
3. Purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility or purchase major medical equipment.
4. Satisfy any requirement for the expenditure of SUBG funds as a condition for the receipt of federal funds.
5. Provide financial assistance to any entity other than a public or nonprofit private entity.
6. Pay the salary of an individual through a grant or other extramural mechanism at a rate in excess of level II of the Executive Salary Schedule for the award year: see [http://grants.nih.gov/grants/policy/salcap\\_summary.htm](http://grants.nih.gov/grants/policy/salcap_summary.htm).
7. Purchase treatment services in penal or correctional institutions.
8. Supplant state funding of programs to prevent and treat substance use and related activities.
9. Carry out any program prohibited by 42 USC 300x-21 and 42 USC 300ee-5 such that none of the funds provided under this Act or an amendment made by this Act shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs unless the Surgeon General of the United States Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug use and the risk that the public will become infected with the etiologic agent for acquired immune deficiency syndrome.
10. Exception regarding inpatient hospital services:
  - a. The county may expend a grant for inpatient hospital-based substance abuse programs subject to the limitations of paragraph (I)(10)(b) of this section only when it has been determined by a physician that:
    - i. The primary diagnosis of the individual is substance use, and the physician certifies this fact;
    - ii. The individual cannot be safely treated in a community-based, nonhospital, residential treatment program;
    - iii. The Service can reasonably be expected to improve an individual's condition or level of functioning;
    - iv. The hospital-based substance use program follows national standards of substance use professional practice.

b. In the case of an individual for whom a grant is expended to provide inpatient hospital services described above, the allowable expenditure shall conform to the following:

i. The daily rate of payment provided to the hospital for providing the services to the individual will not exceed the comparable daily rate provided for community-based, nonhospital, residential programs of treatment for substance use and

ii. The grant may be expended for such services only to the extent that it is medically necessary, i.e., only for those days that the patient cannot be safely treated in a residential, community-based program.

11. Provide services reimbursable by Medi-Cal:

a. The county shall not utilize SUBG funds to pay for a service that is reimbursable by Medi-Cal.

b. The county may utilize SUBG funds to pay for a service included in the California State Plan or the Drug Medi-Cal Organized Delivery System (DMC-ODS), but which is not reimbursable by Medi-Cal.

c. If the county utilizes SUBG funds to pay for a service that is included in the California State Plan or the DMC-ODS, the county shall maintain documentation sufficient to demonstrate that Medi-Cal reimbursement was not available.

### **Part III – Financial Audit Requirements**

#### **Section 1 – General Fiscal Audit Requirements**

A. In addition to the requirements identified below, the county and its subcontractors are required to meet the audit requirements as delineated in Exhibit C, General Terms and Conditions, and Enclosure 5 (Special Terms and Conditions) of this Contract.

B. All expenditures of county realignment funds, and state and federal funds furnished to the county and its subcontractors pursuant to this Agreement are subject to audit by DHCS. Such audits shall consider and build upon external independent audits performed pursuant to audit requirements of 45 CFR, Part 75, Subpart F, and/or any independent county audits or reviews. Objectives of such audits may include, but are not limited to, the following:

1. To determine whether units of service claimed/reported are properly documented by service records and accurately accumulated for claiming/reporting.

2. To validate data reported by the county for prospective contract negotiations.

3. To provide technical assistance in addressing current-year activities and providing recommendations on internal controls, accounting procedures, financial records, and compliance with laws and regulations.

4. To determine the cost of services, net of related patient and participant fees, third-party payments, and other related revenues and funds.
  5. To determine that expenditures are made in accordance with applicable state and federal laws and regulations and contract/agreement requirements.
  6. To determine the facts in relation to analysis of data, complaints, or allegations, which may be indicative of fraud, abuse, willful misrepresentation, or failure to achieve the Agreement objectives.
- C. Unannounced visits to the county and/or its subcontractors may be made at the discretion of DHCS.
- D. The refusal of the county or its subcontractors to permit access to and inspection of electronic or print books and records, physical facilities, and/or refusal to permit interviews with employees, as described in this part constitutes an express and immediate material breach of this Agreement and will be sufficient basis to terminate the Agreement for cause or default.
- E. Reports of audits conducted by DHCS shall reflect all findings, recommendations, adjustments, and corrective actions as a result of its findings in any areas.

## **Section 2 – SUBG Financial Audits**

- A. The county shall monitor the activities of all its subcontractors to ensure that the SUBG funds are used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the grant, and that performance goals are achieved.
- B. The county may use a variety of monitoring mechanisms, including limited scope audits, on-site visits, progress reports, financial reports, and review of documentation support requests for reimbursement, to meet the county's monitoring objectives. The county may charge federal awards for the cost of these monitoring procedures if permitted under 45 CFR 75.425.
- C. The county shall submit to DHCS a copy of the procedures and any other monitoring mechanism used to monitor non-profit subcontracts at the time of the county's annual desk review or site visit or within 60 days thereafter. The county shall state the frequency that non-profit Subcontracts are monitored.
- D. On-site visits focus on compliance and controls over compliance areas. DHCS analyst(s) shall make site visits to the subcontractor location(s) and can use a variety of monitoring mechanisms to document compliance requirements. The county shall follow up on any findings and the corrective actions.

The county shall be responsible for any disallowance taken by the Federal Government, DHCS, or the California State Auditor as a result of any audit exception that is related to the county's responsibilities herein. The county shall not use funds administered by DHCS to repay one federal funding source with funds provided by another federal funding source, to repay federal funds with state funds, or to repay state funds with federal funds. DHCS shall invoice the

county 60 days after issuing the final audit report or upon resolution of an audit appeal. The county agrees to develop and implement any CAP in a manner acceptable to DHCS in order to comply with the recommendations contained in any audit report. Such CAP plans shall include time-specific objectives to allow for measurement of progress and are subject to verification by DHCS within one year from the date of the plan.

- E. Counties that conduct financial audits of subcontractors other than a subcontractor whose funding consists entirely of non-Department funds shall develop a process to resolve disputed financial findings and notify subcontractors of their appeal rights pursuant to that process. If any fiscal adjustments remain after the county and subcontractor have exhausted the internal appeals process, any SUBG funds outstanding shall be returned to DHCS. This section shall not apply to those grievances or compliances arising from the financial findings of an audit or examination made by or on behalf of DHCS pursuant to Part III of this Enclosure.
- F. If the county fails to comply with federal statutes, regulations, or the terms and conditions of the grant, DHCS may impose additional conditions on the subaward, including:
  - 1. Requiring additional or more detailed financial reports.
  - 2. Requiring technical or management assistance.
  - 3. Establishing additional prior approvals.
- G. If DHCS determines that the county's noncompliance cannot be remedied by imposing additional conditions, DHCS may take one or more of the following actions:
  - 1. Temporarily withhold cash payment pending correction of the deficiency by the county.
  - 2. Disallow all or part of the cost of the activity or action not in compliance.
  - 3. Wholly or partly suspend the award activities or terminate the county's subaward.
  - 4. Recommend that the suspension or debarment proceedings be initiated by the federal awarding agency.
  - 5. Withhold further federal awards.
  - 6. Take other remedies that may be legally available.

## Part IV – Records

### Section 1 - General Provisions

#### A. Maintenance of Records

The county shall maintain sufficient books, records, documents, and other evidence necessary for DHCS to audit contract/agreement performance and compliance. The county shall make these records available to SAMHSA, Inspectors General, the Comptroller General, DHCS, or any of their authorized representatives upon request, to evaluate the quality and quantity of services, accessibility and appropriateness of services, and to ensure fiscal accountability. Regardless of the location or ownership of such records, they shall be sufficient to determine if costs incurred by the county are reasonable, allowable, and allocated appropriately. All records must be capable of verification by qualified auditors.

1. County and subcontractors shall include in any contract with an audit firm a clause to permit access by DHCS to the working papers of the external independent auditor and require that copies of the working papers shall be made for DHCS at its request.
2. County and subcontractors shall keep adequate and sufficient financial records and statistical data to support the year-end documents filed with DHCS. All records must be capable of verification by qualified auditors.
3. In alignment with Welfare and Institutions Code 14124.1, accounting records and supporting documents shall be retained for a 10-year period from the date DHCS approved the year-end cost settlement report for interim settlement. When an audit by the Federal Government, DHCS, or the California State Auditor has been started before the expiration of the 10-year period, the records shall be retained until completion of the audit and final resolution of all issues that arise in the audit. The final settlement shall be made at the end of the audit and appeal process. If an audit has not been completed within 10 years, the interim settlement shall be considered the final settlement.
4. Financial records shall be kept to clearly reflect the funding source for each type of service for which reimbursement is claimed. These documents include, but are not limited to, all ledgers, books, vouchers, time sheets, payrolls, appointment schedules, client data cards, and schedules for allocating costs. All records must be capable of verification by qualified auditors.
5. County's subcontracts shall require that all subcontractors comply with the requirements of Enclosure 2.
6. Should a subcontractor discontinue its contractual agreement with the county, or cease to conduct business in its entirety, the county shall be responsible for

retaining the subcontractor's fiscal and program records for the required retention period. The State Administrative Manual (SAM) contains statutory requirements governing the retention, storage, and disposal of records pertaining to state funds. County shall follow SAM requirements located at <http://sam.dgs.ca.gov/TOC/1600.aspx>.

7. The county shall retain all records in accordance with the record retention policy stipulated in Welfare and Institutions Code 14124.1.
8. In the expenditure of funds hereunder, and as required by 45 CFR Part 96, county shall comply with the requirements of SAM and the laws and procedures applicable to the obligation and expenditure of federal and state funds.

### Part V – Definitions

**Discretionary Allocation:** Funds are provided for needed substance use disorder (SUD) treatment, prevention, and recovery services in accordance with United States Code (U.S.C.), Title 42, Section 300x-22, SABG Discretionary funds may be spent on planning, carrying out, and evaluating activities to prevent and treat SUD. Discretionary funds are neither a set-aside nor an allowance; however, these funds can be used to supplement set-asides. In addition, the discretionary allocation is intended to be a flexible funding source for counties to support allowable programs that may not fall under the set-aside categories.

**Set-Asides** are defined as the reservation of a specific portion of funds for a particular purpose or program. Set-asides constitute the mandatory minimum allocation required to be expended toward the designated purpose or program.

- **Perinatal Set-Aside:** Funds are used for women-specific services for treatment and recovery from alcohol and other SUD, along with diverse supportive services for California women and their children. Perinatal programs, as part of the Perinatal Services Network, must meet the requirements set forth in the Perinatal Practice Guidelines (PPG). Counties must use these funds to increase or maintain existing perinatal treatment capacity and programs. Counties may also use these funds to add new perinatal services or programs or change existing programs. See the [Perinatal Practice Guidelines](#).
- **Adolescent/Youth Treatment (AYT) Set-Aside:** Funds provide comprehensive, age-appropriate, SUD services to youth. The Adolescent Substance Use Disorder Best Practices Guide, revised in October 2020, is designed for counties to use in developing and implementing AYT programs funded by this allocation. Please see the Adolescent Best Practices Guide. See the [Adolescent Substance Use Disorder Best Practices Guide](#).
- **Primary Prevention Set-Aside:** U.S.C. Title 42, Section 300x-22(a) requires the State to spend a minimum of 25 percent of the total SUBG Award to California on primary prevention services.

A county's expenditure of allocated primary prevention funds is integral to meeting federal SUBG spending requirements and aligning with California's priorities. Counties must utilize SAMHSA's Strategic Prevention Framework in their local

decision making, prioritizing high need areas and populations, based on data and evidence where applicable, and select strategies that will best address the high need areas and populations being served. Strategies may consist of both individual- and population-based services using one or more of the Center for Substance Abuse Prevention's six prevention strategies: Information Dissemination, Education, Alternatives, Problem Identification and Referral, Community-Based Process, and Environmental.

**Allowances** are defined as the maximum allocation permitted for a specified purpose or program. They are subsets of the *discretionary* allocation, meaning that when allowance expenditures are utilized, the *discretionary* allocation decreases accordingly.

- **Syringe Services Program (SSP) Allowance:** Allowance of comprehensive prevention programs for persons who inject drugs that include the provision of sterile needles, syringes and other drug preparation equipment and disposal services, etc. See the [Implementation Guidance to Support Certain Components of Syringe Services Programs, 2016](#). Refer to Enclosure 5 for additional information on SSP.

## **Special Terms and Conditions**

*(For federally funded service contracts or agreements and grant agreements)*

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition.

The terms "contract", "Contractor" and "Subcontractor" shall also mean, "agreement", "grant", "grant agreement", "Grantee" and "Subgrantee" respectively.

The terms "California Department of Health Care Services", "California Department of Health Services", "Department of Health Care Services", "Department of Health Services", "CDHCS", "DHCS", "CDHS", and "DHS" shall all have the same meaning and refer to the California State agency that is a party to this Agreement.

This exhibit contains provisions that require strict adherence to various contracting laws and policies. Some provisions herein are conditional and only apply if specified conditions exist (i.e., agreement total exceeds a certain amount; agreement is federally funded, etc.). The provisions herein apply to this Agreement unless the provisions are removed by reference on the face of this Agreement, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.

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## 1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements entered into by the Department of Health Care Services)

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.

- e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or DHCS may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, the Contractor may request in writing to DHCS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

## **2. Travel and Per Diem Reimbursement**

(Applicable if travel and/or per diem expenses are reimbursed with agreement funds.)

Reimbursement for travel and per diem expenses from DHCS under this Agreement shall, unless otherwise specified in this Agreement, be at the rates currently in effect,

as established by the California Department of Human Resources (CalHR), for nonrepresented state employees as stipulated in DHCS' Travel Reimbursement Information Exhibit. If the CalHR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to CalHR rates may be approved by DHCS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization from DHCS. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

### 3. Procurement Rules

(Applicable to agreements in which equipment/property, commodities and/or supplies are furnished by DHCS or expenses for said items are reimbursed by DHCS with state or federal funds provided under the Agreement.)

#### a. Equipment/Property definitions

Wherever the term equipment and/or property is used, the following definitions shall apply:

- (1) **Major equipment/property:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.
- (2) **Minor equipment/property:** A tangible item having a base unit cost of less than \$5,000 with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement.

**b. Government and public entities (including state colleges/universities and auxiliary organizations),** whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

**c. Nonprofit organizations and commercial businesses,** whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment/property and services related to such purchases for performance under this Agreement.

- (1) Equipment/property purchases shall not exceed \$50,000 annually.

To secure equipment/property above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate DHCS Program Contract Manager, to have all remaining equipment/property purchased through DHCS' Purchasing Unit. The cost of equipment/property

- purchased by or through DHCS shall be deducted from the funds available in this Agreement. Contractor shall submit to the DHCS Program Contract Manager a list of equipment/property specifications for those items that the State must procure. DHCS may pay the vendor directly for such arranged equipment/property purchases and title to the equipment/property will remain with DHCS. The equipment/property will be delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the DHCS Program Contract Manager, in writing, of an alternate delivery address.
- (2) All equipment/property purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are either a government or public entity.
- (3) Nonprofit organizations and commercial businesses shall use a procurement system that meets the following standards:
- (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.
- (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
- (c) Procurements shall be conducted in a manner that provides for all of the following:
- [1] Avoid purchasing unnecessary or duplicate items.
- [2] Equipment/property solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
- [3] Take positive steps to utilize small and veteran owned businesses.
- d. Unless waived or otherwise stipulated in writing by DHCS, prior written authorization from the appropriate DHCS Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment/property, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHCS, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
- e. In special circumstances, determined by DHCS (e.g., when DHCS has a need to monitor certain purchases, etc.), DHCS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of

dollar amount. DHCS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHCS determines to be unnecessary in carrying out performance under this Agreement.

- f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
- g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
- h. DHCS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

#### **4. Equipment/Property Ownership / Inventory / Disposition**

(Applicable to agreements in which equipment/property is furnished by DHCS and/or when said items are purchased or reimbursed by DHCS with state or federal funds provided under the Agreement.)

- a. Wherever the term equipment and/or property is used in Provision 4, the definitions in Paragraph a of Provision 3 shall apply.

Unless otherwise stipulated in this Agreement, all equipment and/or property that is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement shall be considered state equipment and the property of DHCS.

##### **(1) Reporting of Equipment/Property Receipt**

DHCS requires the reporting, tagging and annual inventorying of all equipment and/or property that is furnished by DHCS or purchased/reimbursed with funds provided through this Agreement.

Upon receipt of equipment and/or property, the Contractor shall report the receipt to the DHCS Program Contract Manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by DHCS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHCS Funds) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager.

**(2) Annual Equipment/Property Inventory**

- If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or property to the DHCS Program Contract Manager using a form or format designated by DHCS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHCS-Funded Equipment) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager. Contractor shall:
- (a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
  - (b) Submit the inventory report to DHCS according to the instructions appearing on the inventory form or issued by the DHCS Program Contract Manager.
  - (c) Contact the DHCS Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by either the DHCS Program Contract Manager or DHCS' Asset Management Unit.
- b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.
  - c. Unless otherwise stipulated, DHCS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.
  - d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.
- (1) In administering this provision, DHCS may require the Contractor and/or Subcontractor to repair or replace, to DHCS' satisfaction, any damaged, lost or stolen state equipment and/or property. In the event of state equipment and/or miscellaneous property theft, Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the DHCS Program Contract Manager.
- e. Unless otherwise stipulated by the Program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall only be used for performance of this Agreement or another DHCS agreement.
  - f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor shall provide a final inventory report of equipment and/or property to the DHCS Program Contract Manager and shall, at that time, query DHCS as

to the requirements, including the manner and method, of returning state equipment and/or property to DHCS. Final disposition of equipment and/or property shall be at DHCS expense and according to DHCS instructions. Equipment and/or property disposition instructions shall be issued by DHCS immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, DHCS may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different DHCS agreement.

**g. Motor Vehicles**

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under this Agreement.)

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor shall return such vehicles to DHCS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHCS.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.
- (3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

**Automobile Liability Insurance**

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

- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The certificate of insurance shall identify the DHCS contract or agreement number for which the insurance applies.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to DHCS.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
  - [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Care Services).
  - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.
  - [3] The insurance carrier shall notify the California Department of Health Care Services (DHCS), in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.
- (f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHCS, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHCS may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

## 5. Subcontract Requirements

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
  - (1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.
  - (2) DHCS may identify the information needed to fulfill this requirement.
  - (3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:
    - (a) A local governmental entity or the federal government,
    - (b) A State college or State university from any State,
    - (c) A Joint Powers Authority,
    - (d) An auxiliary organization of a California State University or a California community college,
    - (e) A foundation organized to support the Board of Governors of the California Community Colleges,
    - (f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
    - (g) Firms or individuals proposed for use and approved by DHCS' funding Program via acceptance of an application or proposal for funding or pre/post contract award negotiations,
    - (h) Entities and/or service types identified as exempt from advertising and competitive bidding in [State Contracting Manual Chapter 5 Section 5.80 Subsection B.2.](#)
- b. DHCS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.
  - (1) Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.

- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHCS.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by DHCS, make copies available for approval, inspection, or audit.
- e. DHCS assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:  
"(Subcontractor Name) agrees to maintain and preserve, until ten years after termination of (Agreement Number) and final payment from DHCS to the Contractor, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."
- i. Unless otherwise stipulated in writing by DHCS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, 32 and/or other numbered provisions herein that are deemed applicable.

## 6. Income Restrictions

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

## 7. Audit and Record Retention

(Applicable to agreements in excess of \$10,000.)

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that DHCS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896.77)
- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of ten years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
  - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of ten years from the date of any resulting final settlement.
  - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the ten-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular ten-year period, whichever is later.
- e. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

- f. The Contractor shall, if applicable, comply with the Single Audit Act and the audit requirements set forth in 2 C.F.R. § 200.501 (2014).

## **8. Site Inspection**

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

## **9. Federal Contract Funds**

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

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

## **10. Termination**

### **a. For Cause**

The State may terminate this Agreement, in whole or in part, and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand. If this Agreement is terminated, in whole or in part, the

State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials, related to the terminated portion of the Contract, including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The State shall pay contract price for completed deliverables delivered and accepted and items the State requires the Contractor to transfer as described in this paragraph above.

**b. For Convenience**

The State retains the option to terminate this Agreement, in whole or in part, without cause, at the State's convenience, without penalty, provided that written notice has been delivered to the Contractor at least ninety (90) calendar days prior to such termination date. In the event of termination, in whole or in part, under this paragraph, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials related to the terminated portion of the contract including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The Contractor will be entitled to compensation upon submission of an invoice and proper proof of claim for the services and products satisfactorily rendered, subject to all payment provisions of the Agreement. Payment is limited to expenses necessarily incurred pursuant to this Agreement up to the date of termination.

## **11. Intellectual Property Rights**

**a. Ownership**

- (1) Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come

into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

- (a) For the purposes of the definition of Intellectual Property, “works” means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of DHCS’ Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of DHCS’ Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHCS. Except as otherwise set forth herein, neither the Contractor nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party. If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHCS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party’s license agreement.
- (4) Contractor agrees to cooperate with DHCS in establishing or maintaining DHCS’ exclusive rights in the Intellectual Property, and in assuring DHCS’ sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHCS and which result directly or indirectly from this Agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS’ Intellectual Property rights and interests.

**b. Retained Rights / License Rights**

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

**c. Copyright**

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2010, etc.], California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other

matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

**d. Patent Rights**

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to DHCS a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to DHCS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHCS in securing United States and foreign patents with respect thereto.

**e. Third-Party Intellectual Property**

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining DHCS' prior written approval; and (ii) granting to or obtaining for DHCS, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon the these terms is unattainable, and DHCS determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to DHCS.

**f. Warranties**

(1) Contractor represents and warrants that:

- (a) It is free to enter into and fully perform this Agreement.
- (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
- (c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

- (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
  - (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
  - (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.
  - (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
  - (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.
- (2) DHCS makes no warranty that the intellectual property resulting from this agreement does not infringe upon any patent, trademark, copyright or the like, now existing or subsequently issued.

**g. Intellectual Property Indemnity**

- (1) Contractor shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based

on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHCS.

- (2) Should any Intellectual Property licensed by the Contractor to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for DHCS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Contractor agrees that damages alone would be inadequate to compensate DHCS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

**h. Federal Funding**

In any agreement funded in whole or in part by the federal government, DHCS may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

**i. Survival**

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

**12. Air or Water Pollution Requirements**

Any federally funded agreement and/or subcontract in excess of \$100,000 must comply with the following provisions unless said agreement is exempt by law.

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 7606) section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations.
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

**13. Prior Approval of Training Seminars, Workshops or Conferences**

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

**14. Confidentiality of Information**

- a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.
- b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
- c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.

- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- f. As deemed applicable by DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

## **15. Documents, Publications and Written Reports**

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

## **16. Dispute Resolution Process**

- a. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below.
  - (1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.
  - (2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her

designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.

- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Health and Safety Code Section 100171.
- c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.
- d. There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

### **17. Financial and Compliance Audit Requirements**

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code Section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
  - (1) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement;*** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
  - (2) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement,*** the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**

(3) ***If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by 2 C.F.R. §§ 200.64, 200.70, and 200.90) and expends \$750,000 or more in Federal awards,*** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in 2 C.F.R. 200.501 entitled "Audit Requirements". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:

(a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or

(b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.

(4) If the Contractor submits to DHCS a report of an audit other than a 2 C.F.R. 200.501 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$750,000 or more in federal funds for the year covered by the audit report.

- d. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
- e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
- f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
- g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
- h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.

- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
- j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
- k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

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

## **18. Human Subjects Use Requirements**

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

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

## **19. Novation Requirements**

If the Contractor proposes any novation agreement, DHCS shall act upon the proposal within 60 days after receipt of the written proposal. DHCS may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHCS will initiate an amendment to this Agreement to formally implement the approved proposal.

## **20. Debarment and Suspension Certification**

(Applicable to all agreements funded in part or whole with federal funds.)

- a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 2 CFR 180, 2 CFR 376

- b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
  - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice, or the commission of any other offense indicating a lack of business integrity or business honesty that seriously affects its business honesty;
  - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
  - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.
  - (5) Have not, within a three-year period preceding this application/proposal/agreement, engaged in any of the violations listed under 2 CFR Part 180, Subpart C as supplemented by 2 CFR Part 376.
  - (6) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
  - (7) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHCS Program Contract Manager.
- d. The terms and definitions herein have the meanings set out in 2 CFR Part 180 as supplemented by 2 CFR Part 376.
- e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

## 21. Smoke-Free Workplace Certification

(Applicable to federally funded agreements/grants and subcontracts/subawards, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

- a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.
- b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.
- c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.
- d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

## 22. Covenant Against Contingent Fees

(Applicable only to federally funded agreements.)

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

**23. Payment Withholds**

(Applicable only if a final report is required by this Agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this Agreement, DHCS may, at its discretion, withhold 10 percent (10%) of the face amount of the Agreement, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until DHCS receives a final report that meets the terms, conditions and/or scope of work requirements of this Agreement.

**24. Performance Evaluation**

(Not applicable to grant agreements.)

DHCS may, at its discretion, evaluate the performance of the Contractor at the conclusion of this Agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with DHCS. Negative performance evaluations may be considered by DHCS prior to making future contract awards.

**25. Officials Not to Benefit**

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

**26. Four-Digit Date Compliance**

(Applicable to agreements in which Information Technology (IT) services are provided to DHCS or if IT equipment is procured.)

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

**27. Prohibited Use of State Funds for Software**

(Applicable to agreements in which computer software is used in performance of the work.)

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

**28. Use of Small, Minority Owned and Women's Businesses**

(Applicable to that portion of an agreement that is federally funded and entered into with institutions of higher education, hospitals, nonprofit organizations or commercial businesses.)

Positive efforts shall be made to use small businesses, minority-owned firms and women's business enterprises, whenever possible (i.e., procurement of goods and/or services). Contractors shall take all of the following steps to further this goal.

- a. Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- b. Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- c. Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
- d. Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- e. Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

**29. Alien Ineligibility Certification**

(Applicable to sole proprietors entering federally funded agreements.)

By signing this Agreement, the Contractor certifies that he/she is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act. (8 U.S.C. 1601, et seq.)

**30. Union Organizing**

(Applicable only to grant agreements.)

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.

- c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

### **31. Contract Uniformity (Fringe Benefit Allowability)**

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, DHCS sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
  - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
  - (2) Director's and executive committee member's fees.
  - (3) Incentive awards and/or bonus incentive pay.
  - (4) Allowances for off-site pay.
  - (5) Location allowances.
  - (6) Hardship pay.
  - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
  - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.

- d. To be an allowable fringe benefit, the cost must meet the following criteria:
- (1) Be necessary and reasonable for the performance of the Agreement.
  - (2) Be determined in accordance with generally accepted accounting principles.
  - (3) Be consistent with policies that apply uniformly to all activities of the Contractor.
- e. Contractor agrees that all fringe benefits shall be at actual cost.
- f. Earned/Accrued Compensation
- (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.
  - (2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.
  - (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.
- (a) **Example No. 1:**
- If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.
- (b) **Example No. 2:**
- If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

**(c) Example No. 3:**

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to DHCS, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

**32. Suspension or Stop Work Notification**

- a. DHCS may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Contractor is to suspend and/or stop all, or any part, of the work called for by this Agreement.
- b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within 30 working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from DHCS. The resumption of work (in whole or part) will be at DHCS' discretion and upon receipt of written confirmation.
  - (1) Upon receipt of a suspension or stop work notification, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.
  - (2) Within 90 days of the issuance of a suspension or stop work notification, DHCS shall either:
    - (a) Cancel, extend, or modify the suspension or stop work notification; or
    - (b) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.
- c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Contractor may resume work only upon written concurrence of funding Program's Contract Manager.
- d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.
- e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.

- f. DHCS shall not be liable to the Contractor for loss of profits because of any suspension or stop work notification issued under this clause.

### **33. Public Communications**

“Electronic and printed documents developed and produced, for public communications shall follow the following requirements to comply with Section 508 of the Rehabilitation Act and the American with Disabilities Act:

- a. Ensure visual-impaired, hearing-impaired and other special needs audiences are provided material information in formats that provide the most assistance in making informed choices.”

### **34. Compliance with Statutes and Regulations**

- a. The Contractor shall comply with all California and federal law, regulations, and published guidelines, to the extent that these authorities contain requirements applicable to Contractor's performance under the Agreement.
- b. These authorities include, but are not limited to, Title 2, Code of Federal Regulations (CFR) Part 200, subpart F, Appendix II; Title 42 CFR Part 431, subpart F; Title 42 CFR Part 433, subpart D; Title 42 CFR Part 434; Title 45 CFR Part 75, subpart D; and Title 45 CFR Part 95, subpart F. To the extent applicable under federal law, this Agreement shall incorporate the contractual provisions in these federal regulations and they shall supersede any conflicting provisions in this Agreement.

### **35. Lobbying Restrictions and Disclosure Certification**

(Applicable to federally funded agreements in excess of \$100,000 per Section 1352 of the 31, U.S.C.)

- a. Certification and Disclosure Requirements
  - (1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled “Certification Regarding Lobbying”) that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.
  - (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled “Standard Form-LLL ‘disclosure of Lobbying Activities’”) if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.

- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:
- (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
  - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
  - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHCS Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

**Attachment 1  
CERTIFICATION REGARDING LOBBYING**

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

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

Name of Contractor	Printed Name of Person Signing for Contractor
Contract / Grant Number	Signature of Person Signing for Contractor
Date	Title

After execution by or on behalf of the contractor, please return to: California Department of Health Care Services.

DHCS reserves the right to notify the contractor in writing of an alternate submission address.



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

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

## **Syringe Services Programs (SSPs) Program and Policy Overview, Instructions, and Annual County Attestation and Certification Forms**

The Department of Health Care Services (DHCS), with support from the California Department of Public Health (CDPH) and the Center for Disease Control (CDC), has received approval from the United States' Substance Abuse and Mental Health Services Agency (SAMHSA) to utilize federal Substance Use Prevention, Treatment, and Recovery Services Block Grant (SUBG) funding to support existing Syringe Services Programs (SSPs), or to start new SSPs within the state of California.

Counties applying to utilize SUBG funding for an SSP must adhere to the following federal policies, restrictions, and requirements.

### 1. Definitions

The United States Department of Health and Human Services' [Implementation Guidance to Support Certain Components of Syringe Services Programs, 2016](#), defines SSPs as comprehensive prevention programs for People Who Inject Drugs (PWID) that include the provision of sterile needles, syringes and other drug preparation equipment and disposal services, and some or all the following services:

- Comprehensive Human Immunodeficiency Virus (HIV) risk reduction counseling related to sexual and injection and/or prescription drug misuse;
- HIV, viral hepatitis, sexually transmitted diseases (STD), and tuberculosis (TB) screening;
- Provision of naloxone to reverse opiate overdoses;
- Referral and linkage to HIV, viral hepatitis, STD, and TB prevention care and treatment services;
- Referral and linkage to hepatitis A virus (HAV) and hepatitis B virus (HBV) vaccinations; and
- Referral to Substance Use Disorder (SUD) treatment and recovery services, primary medical care and mental health services.

### 2. Supplantation

SAMHSA funds cannot supplant existing funding sources. In other words, SAMHSA funds may only be used to fund an existing SSP if the funds given are in addition to existing funding sources for the program. SAMHSA funds must not be used to replace existing state or other non-federal funds so that those monies may be used for another program. Counties will be monitored and must retain records proving that no supplantation has occurred.

### 3. Allowable Expenses for SUBG Funded SSPs

Funds may be used to establish elements of a SSP or to establish a relationship with an existing SSP.

#### **NO FEDERAL FUNDS MAY BE USED TO PURCHASE SYRINGES.**

The following expenses are allowable:

- Personnel (e.g., program staff, as well as staff for planning, monitoring, evaluation, and quality assurance);
- Supplies, exclusive of needles/syringes and devices solely used in the preparation of substances for illicit drug injection, e.g., cookers;
- Testing kits for hepatitis C virus (HCV) and HIV;
- Syringe disposal services (e.g., contract or other arrangement for disposal of bio- hazardous material);
- Navigation services to ensure linkage to HIV and viral hepatitis prevention, treatment and care services, including antiretroviral therapy for HCV and HIV, pre-exposure prophylaxis, post-exposure prophylaxis, prevention of mother to child transmission and partner services; HAV and HBV vaccination, substance use disorder treatment, recovery support services and medical and mental health services;
- Provision of naloxone to reverse opioid overdoses;
- Educational materials, including information about safer injection practices, overdose prevention and reversing an opioid overdose with naloxone, HIV and viral hepatitis prevention, treatment and care services, and mental health and substance use disorder treatment including medication-assisted treatment and recovery support services;
- Condoms to reduce sexual risk of sexual transmission of HIV, viral hepatitis, and other STDs;
- Communication and outreach activities; and
- Planning and non-research evaluation activities.

### 4. Auditing and Monitoring Requirements

- a. Counties are required to submit an Annual Attestation and Certification form signed by the County Behavioral Health (BH) Director, which serves as the county's agreement to comply with and adhere to federal requirements and restrictions pertaining to the funding of SSPs. The county form to complete and submit is labeled **Attachment I: County-Level Certification and Attestation Form**. The county-level forms must be returned to DHCS with the SUBG Application.

Counties must also require each SSP agency receiving SUBG funds to complete a similar form prior to submitting the county's SUBG Application to DHCS; however, the program-level forms do not need to be returned to DHCS with the SUBG application. The SSP program-level version form is labeled **Attachment II: Program-Level SSP Certification and Attestation Form.**

Counties must keep each SSP's completed Attachment II on file for audit and monitoring purposes. DHCS may request a copy of the document at any time.

- b. Counties and SSPs must comply with the restrictions as enacted in the Consolidated Appropriations Act, 2016, and must maintain supporting financial documentation demonstrating that no federal dollars were spent on needles/other drug supplies such as cookers, etc., for audit purposes.
- c. Counties and SSPs must comply with requirements that funding not be used to supplant existing funding sources and must maintain financial documentation demonstrating that no supplantation of funds has occurred.
- d. Counties must attest that funded SSPs have obtained authorization through the [California Department of Public Health's Office of Aids \(CDPH/OA\)](#), local city council, county board of supervisors, or tribal authority, or attest that the SSP is operating under a physician's license. A copy of the issuing body's official authorization of the SSP or the physician's license must be kept on file by both the SSP and the county for auditing and monitoring purposes.
- e. SUBG-funded SSPs are encouraged to use the state-run Harm Reduction Supply Clearinghouse for syringe/needle acquisition and disposal. All SUBG-funded SSPs must keep documentation pertaining to syringe/needle acquisition and disposal on file for auditing and monitoring purposes.
- f. Counties are required to ensure that SUBG-funded SSPs are meeting the requirement to routinely collaborate with other healthcare providers, including HIV/STD clinics, public health providers, emergency departments, and mental health centers. Counties and SSPs must keep documentation of collaboration (i.e., referrals, etc.) on file for auditing and monitoring purposes.
- g. SUBG-funded SSPs are required to report the following data points to DHCS on a quarterly basis to comply with federal reporting requirements. Data will be collected through a Qualtrics survey online – DHCS will email links to the reporting tool to County and SSP staff on a quarterly basis. SSPs must attest that they agree to provide the following data points to DHCS on a quarterly basis. Counties are required to ensure that SUBG-funded SSPs have reported the required data to DHCS on a quarterly basis.

SSP metrics information:

- Number of syringes distributed;
- Estimated number of syringes returned for safe disposal;
- SSP service program name;
- SSP service program address;
- Number of unique persons served;
- Number of participants receiving SSP services;
- Number and types of services directly provided or provided by referrals;
- Number of persons served for SUD treatment;
- Number of persons served for physical health;
- Number of persons served onsite at the SUD treatment program;
- Number of persons tested for HIV;
- Number of persons tested for viral hepatitis;
- Number of referrals to HIV, viral hepatitis and substance use disorder treatment;
- Number of persons provided Narcan; and
- Dollar amount of SUBG funds used by each SSP.

DHCS is required to report data to SAMHSA based on the FFY, which runs from October 1 to September 31. As such, the quarterly data reporting schedule is as follows:

- Year 1: FFY 2025 (October 1, 2024 – September 30, 2025)
  - FFY 2025 Quarter (Q) 1: October 1, 2024 – December 31, 2024  
Due January 31, 2025
  - FFY 2025 Q2: January 1, 2025 – March 31, 2025  
Due April 30, 2025
  - FFY 2025 Q3: April 1, 2025 – June 30, 2025  
Due July 31, 2025
  - FFY 2025 Q4: July 1, 2025 – September 30, 2025  
Due October 31, 2025
- Year 2 – FFY 2026 (October 1, 2025 – September 30, 2026)
  - FFY 2026 Q1: October 1, 2025 – December 31, 2025  
Due January 30, 2026

- FFY 2026 Q2: January 1, 2026 – March 31, 2026  
Due April 30, 2026
- FFY 2026 Q3: April 1, 2026 – June 30, 2026  
Due July 31, 2026
- FFY 2026 Q4: July 1, 2026 – September 30, 2026  
Due October 30, 2026

## 5. Application Instructions

Counties must submit a Program Narrative for each SSP the county proposes to fund under SUBG. All sections of the form must be filled out, including Section J, which is specific to SSP programs.

Counties are allowed to use up to forty percent of discretionary funding to fund SSPs. Alongside the Program Narrative, counties must enter corresponding budgetary information in the County Workbook.

Finally, counties are required to complete and return the Annual County Attestation and Certification Form (Attachment I). These documents must be completed according to the directions on the form and returned to DHCS as part of the County SUBG Application. The Attestation and Certification form must be completed annually – the first annual form is due with the County SUBG Application. Forms for 2025-2026 must be submitted to [SUBG@dhcs.ca.gov](mailto:SUBG@dhcs.ca.gov) by August 29, 2025.

DHCS is currently authorized to allow SUBG funds for SSPs for FFY 2024-2025. This authority comes from the Further Consolidated Appropriations Act, 2024, Title V, Sec. 526 [P.L. 118-47], which was signed into law on March 23, 2024. Future SUBG award years for SSP funding are contingent upon the subsequent passage of the required authorizing language in future appropriations bills. All SSPs that are funded with SUBG are subject to the current year SUBG Notice of Award (NOA) Standard Terms and Conditions, and any subsequently assigned NOA Additional Terms and Conditions received by the state. DHCS will advise counties regarding continued authorization for FFY 2025-2026 after the next appropriations bill is signed in Spring 2025.

In accordance with federal restrictions, DHCS reserves the right to deny funding for any SSP. Please direct all questions pertaining to the SSP portion of the application to [SUBG@dhcs.ca.gov](mailto:SUBG@dhcs.ca.gov).

**Choose an item. County**  
**Syringe Services Program (SSP)**  
**Annual County Attestation and Certification Form SFY Choose an item.**

To utilize Substance Use Prevention, Treatment and Recovery Services Block Grant (SUBG) funds to support Syringe Services Programs (SSPs), the Department of Health Care Services (DHCS) requires counties and SSPs receiving funds through counties to attest to and certify agreement to the following federal requirements and restrictions.

Instructions:

In the Annual Attestation section, check each box to agree to each requirement. Each item must be checked and agreed to for the State of California to consider funding the SSP.

In the Annual Certification section, provide the county's Behavioral Health (BH) Director's signature of attestation and certification, and provide the date signed.

**Important Note:** Only Attachment I (all three pages) must be submitted to DHCS with the County SUBG Application; however, counties must require each SSP agency receiving SUBG funds to complete **Attachment II** of the SUBG Application.

**Attachment II** is the *Program-Level SSP Certification and Attestation Form* that applies to SSPs. Counties must keep the completed Attachment II from each SSP on file for audit and monitoring purposes.

**Annual County Attestation:**

1.  No federal funds shall be utilized to purchase sterile needles or syringes for the hypodermic injection of any illegal drug. Counties and SSPs must comply with the restrictions as enacted in the Consolidated Appropriations Act, 2016. Counties and SSPs must keep documentation on file for auditing purposes to demonstrate that no federal funds were used to purchase sterile needles or syringes.
2.  Federal funding must not be used to supplant existing funding sources, and counties and SSPs must maintain financial documentation demonstrating that no supplantation of funds has occurred.
3.  Counties must attest that funded SSPs have obtained authorization through the California Department of Public Health's Office of Aids (CDPH/OA), local city council, county board of supervisors, or tribal authority, or attest that the SSP is operating under a physician's license. A copy of the issuing body's official authorization of the SSP or the physician's license must be kept on file by both the SSP and the county for auditing and monitoring purposes.

4.  SUBG-funded SSPs are encouraged to use the state-run Harm Reduction Supply Clearinghouse for syringe/needle acquisition and disposal. All SUBG-funded SSPs must keep documentation pertaining to syringe/needle acquisition and disposal on file for auditing and monitoring purposes.
5.  Counties are required to ensure that SUBG-funded SSPs are meeting the requirement to routinely collaborate with other healthcare providers, including HIV/STD clinics, public health providers, emergency departments, and mental health centers. Counties and SSPs must keep documentation of collaboration (i.e., referrals, etc.) on file for auditing and monitoring purposes.
6.  SUBG-funded SSPs are required to report the following data points to DHCS to comply with federal reporting requirements. SSPs must attest that they agree to provide the following data points to DHCS on a quarterly basis. Counties are required to ensure that SUBG-funded SSPs have reported the required data to DHCS on a quarterly basis.

**SSP metrics information:**

- Number of syringes distributed;
- Estimated number of syringes returned for safe disposal;
- SSP service program name;
- SSP service program address;
- Number of unique persons served;
- Number of participants receiving SSP services;
- Number and types of services directly provided or provided by referrals;
- Number of persons served for SUD treatment;
- Number of persons served for physical health;
- Number of persons served onsite at the SUD treatment program;
- Number of persons tested for HIV;
- Number of persons tested for viral hepatitis;
- Number of referrals to HIV, viral hepatitis and substance use disorder treatment;
- Number of persons provided Narcan; and
- Dollar amount of SUBG funds used by each SSP.

### Annual County Certification

On December 18, 2015, President Barack Obama signed the Consolidated Appropriations Act, 2016 (Pub. L. 114-113), which modified the restriction on the use of federal funds for programs distributing sterile needles or syringes (referred to as Syringe Services Programs [SSPs], or as syringe exchange programs) for U.S. Department of Health and Human Services (HHS) programs.

*SEC. 520. Notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug: Provided, that such limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant State or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the State or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating in accordance with State and local law.*

To utilize SUBG funds to support SSPs, DHCS must certify to the Substance Abuse and Mental Health Services Agency (SAMHSA) and agree to annually certify that no federal funds shall be utilized to purchase sterile needles or syringes for the hypodermic injection of any illegal drug. California will comply with the restrictions as enacted in the Consolidated Appropriations Act, 2016.

As a pass-through requirement, DHCS requires (1) counties and SSPs receiving funds through counties to certify, and agree to annually certify, that no federal funds shall be utilized to purchase sterile needles or syringes for the hypodermic injection of any illegal drug, and (2) to comply with the restrictions as enacted in the Consolidated Appropriations Act, 2016.

County BH Director Signature of Attestation, Certification, and Agreement to Comply:

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Date Signed:

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**Choose an item. County  
Syringe Services Program  
Annual Program Attestation and Certification Form SFY Choose an item.**

To utilize Substance Use Prevention, Treatment, and Recovery Services Block Grant (SUBG) funds to support Syringe Services Programs (SSPs), the Department of Health Care Services (DHCS) requires SSPs which receive SUBG funding to support program operation to attest to the following federal requirements and restrictions.

<b>Agency/Organization Name</b>	
<b>Address</b>	
<b>SSP Director (Print Name)</b>	

Instructions:

In the Annual Attestation section, check each box to agree to each requirement. Each item must be checked and agreed to for the State of California to consider funding the SSP.

In the Annual Certification section, provide the SSP director’s signature of attestation and certification, and provide the date signed. Provide the completed and signed forms to the county and keep a copy on file for auditing and monitoring purposes.

**Annual Program Attestation**

1.  No federal funds shall be utilized to purchase sterile needles or syringes for the hypodermic injection of any illegal drug. SSPs must comply with the restrictions as enacted in the Consolidated Appropriations Act, 2016. SSPs must keep documentation on file for auditing purposes to demonstrate that no federal funds were used to purchase sterile needles or syringes.
  
2.  Federal funding must not be used to supplant existing funding sources, and SSPs must maintain financial documentation demonstrating that no supplantation of funds has occurred.
  
3.  SUBG-funded SSPs must attest that they have obtained authorization through the California Department of Public Health’s Office of AIDS (CDPH/OA), local city council, county board of supervisors, or tribal authority, or attest that the SSP is operating under a physician’s license. A copy of the issuing body’s official authorization or physician’s license must be kept on file by the SSP for auditing and monitoring purposes.
  
4.  SUBG-funded SSPs are encouraged to use the state-run Harm Reduction Supply Clearinghouse for syringe/needle acquisition and disposal. All SUBG-funded SSPs

must keep documentation pertaining to syringe/needle acquisition and disposal on file for auditing and monitoring purposes.

5.  SUBG-funded SSPs are required to routinely collaborate with other healthcare providers, including HIV/STD clinics, public health providers, emergency departments, and mental health centers. Documentation of collaboration (i.e., referrals, etc.) must be kept on file for auditing and monitoring purposes.
6.  SUBG-funded SSPs are required to report the following data points to DHCS to comply with federal reporting requirements. SSPs must attest that they agree to provide the following data points to DHCS on a quarterly basis. SSPs must also agree to notify their County Behavioral Health Department to confirm that the data has been sent to DHCS on a quarterly basis.

**SSP metrics information:**

- Number of syringes distributed;
- Estimated number of syringes returned for safe disposal;
- SSP service program name;
- SSP service program address;
- Number of unique persons served;
- Number of participants receiving SSP services;
- Number and types of services directly provided or provided by referrals;
- Number of persons served for SUD treatment;
- Number of persons served for physical health;
- Number of persons served onsite at the SUD treatment program;
- Number of persons tested for HIV;
- Number of persons tested for viral hepatitis;
- Number of referrals to HIV, viral hepatitis and substance use disorder treatment;
- Number of persons provided Narcan; and
- Dollar amount of SUBG funds used by each SSP.

### Annual Program Certification

On December 18, 2015, President Barack Obama signed the Consolidated Appropriations Act, 2016 (Pub. L. 114-113), which modified the restriction on the use of federal funds for programs distributing sterile needles or syringes (referred to as SSPs, or as syringe exchange programs) for U.S. Department of Health and Human Services (HHS) programs.

*SEC. 520. Notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug: Provided, that such limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant State or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the State or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating in accordance with State and local law.*

To utilize Substance Use Prevention, Treatment, and Recovery Services Block Grant (SUBG) funds to support Syringe Services Programs (SSPs), DHCS must certify to the Substance Abuse and Mental Health Services Agency (SAMHSA) and agree to annually certify that no federal funds shall be utilized to purchase sterile needles or syringes for the hypodermic injection of any illegal drug. California will comply with the restrictions as enacted in the Consolidated Appropriations Act, 2016.

As a pass-through requirement, DHCS and the county require SSPs receiving funds through counties (1) to certify, and agree to annually certify, that no federal funds shall be utilized to purchase sterile needles or syringes for the hypodermic injection of any illegal drug, and (2) to comply with the restrictions as enacted in the Consolidated Appropriations Act, 2016.

SSP Director Signature of Attestation, Certification, and Agreement to Comply:

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Date Signed:

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## **Additional Data Reporting Requirements For State Fiscal Years 2024-25 and 2025-26**

### **Background**

Starting on July 1, 2024, counties that receive SUBG funds will be required to submit additional data to DHCS for **recovery support services** and **harm reduction activities** on a quarterly basis.

The new recovery support services reporting requirement is a result of Congressional requirements included in the Consolidated Appropriations Act, 2023.

The harm reduction activities reporting requirement is intended to capture the extent to which SUBG funds (other than primary prevention) are used to support harm reduction activities, specifically naloxone kit and fentanyl test strip purchases and distribution.

### **Recovery Support Services**

Recovery support services are non-clinical services intended to help individuals stay engaged in the recovery process, provide emotional or practical support to navigate care systems, and sustain positive behavior change.

SAMSHA has provided guidance for allowable recovery support service expenditures, available here:

<https://www.samhsa.gov/sites/default/files/recovery-support-services-subg-mhbg.pdf>

The recovery support services reporting requirement is intended for counties to track and submit unduplicated counts of individuals by age, gender identity, and service type for all SUBG-funded recovery support services.

### **Harm Reduction Activities**

Harm reduction is an evidence-based approach that empowers people who use drugs to create positive change and potentially save their lives. An important component of a harm-reduction strategy is the distribution of naloxone and fentanyl test strips to prevent opioid-related deaths.

Starting on July 1, 2024, counties must track and submit SUBG-funded distribution of naloxone kits and fentanyl test strips for each provider/program that receives grant funding.

**Reporting Information and Forms*****Reporting Period******Submission Deadline*****SFY 2024-25**

07/01/2024 - 09/31/2024  
 10/01/2024 - 12/31/2024  
 01/01/2025 - 03/31/2025  
 04/01/2025 - 06/30/2025

10/30/2024  
 01/31/2025  
 04/30/2025  
 07/31/2025

**SFY 2025-26**

07/01/2025 - 09/31/2025  
 10/01/2025 - 12/31/2025  
 01/01/2026 - 03/31/2026  
 04/01/2026 - 06/30/2026

10/31/2025  
 01/30/2026  
 04/30/2026  
 07/31/2026

For each reporting period, please complete both the Recovery Support Services form and Harm Reduction Reporting form by the deadline via the [online data portal](#). Online data portal links will be sent out to counties prior to the deadline.

Any questions regarding the reporting information and forms should be directed to [SUBG@dhcs.ca.gov](mailto:SUBG@dhcs.ca.gov).

**SUBG-Funded Recovery Support Services Reporting Form Instructions**

The purpose of this form is to capture the aggregated, unduplicated number of persons who received recovery support services funded through SUBG by age and gender identity.

For each age group, enter the aggregated unduplicated number of persons who received services, by service received and self-reported gender identity. Persons receiving recovery services may receive more than one type of service during the reporting period.

*Note: The Age category of 0-5 years is not applicable.*

**Recovery Support Service Categories:**

- Peer-to-Peer Support Individual
- Peer-Led Support Group
- Peer-Led Training or Peer Certification Activity
- Recovery Housing
- Recovery Support Service Childcare Fee or Family Caregiver Fee
- Recovery Support Service Transportation

- Secondary School, High School, or Collegiate Recovery Program Service or Activity
- Recovery Social Support or Social Inclusion Activity
- Other SAMHSA Approved Recovery Support Event or Activity

**Recovery Support Sex and Gender Categories (Self-Reported):**

- Female
- Male
- Transgender (Trans Woman)
- Transgender (Trans Man)
- Gender Non-Conforming
- Other
- Not Available

**SUBG-Funded Harm Reduction Reporting Form Instructions**

This form is intended to capture the extent to which SUBG funds (other than primary prevention) are used to support harm reduction activities, specifically naloxone kit and fentanyl test strip purchases and distribution.

Please complete the following columns for each SUBG-funded entity in your County:

- Provider/Program Name - For all entities (county-run or subcontracted) enter the provider's/program name.
- Main Address – Enter the provider's/program address.
- Syringe Services Program (SSP) – Designate “Yes” or “No” if the provider/program is a SSP.
- Number of Naloxone Kits Purchased – Enter the aggregate number of naloxone kits purchased with expenditures from SUBG funds during the reporting period.
- Number of Naloxone Kits Distributed – Enter the total number of naloxone kits distributed during the reporting period.
- Number of Overdose Reversals – Enter the total number of naloxone overdose reversals that occurred during the reporting period.
- Number of Fentanyl Test Strips Purchased – Enter the aggregate number of fentanyl test strips purchased with SUBG funds during the reporting periods.
- Number of Fentanyl Test Strips Distributed – Enter the total number of fentanyl test strips distributed during the reporting period.