

**Fiscal Year 2007-08  
thru  
Fiscal Year 2009-10  
Multi-Year**

**Negotiated Net Amount  
and Drug Medi-Cal  
County  
Contract Boilerplate**

**PRELIMINARY  
EFFECTIVE 7-1-07**



# **Negotiated Net Amount and Drug Medi-Cal County Contract Boilerplate**

**Fiscal Year 2007-08 thru Fiscal Year 2009-10  
Multi-Year**

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**GENERAL TERMS AND CONDITIONS**

A. Contract Exhibits

This Contract between the Department of Alcohol and Drug Programs (State) and the county named in the Standard Agreement attached hereto (Contractor) consists of the Standard Agreement: Exhibits A1, consisting of the Contractor's Fiscal Allocation Detail, Prevention and Treatment Programs Fiscal Summaries, and Provider and Service Fiscal Detail; Exhibit C, which defines the rights and obligations of the parties regarding Negotiated Net Amount (NNA) funds; Exhibit D (if attached), which defines the rights and obligations of the parties regarding Medicaid/Medi-Cal funds, as expended through the Drug Medi-Cal (DMC) Program; and this Exhibit B, entitled "General Terms and Conditions", which contains Contract provisions applicable to all of the Contractors.

B. Contract Term

The term of this Contract shall be from July 1, 2007 through June 30, 2010. Except as provided in Exhibit C, Article III, Sections H and I, the expenditure period for the funds available hereunder shall be as stated on Exhibit A1. State is under no obligation to extend or renew this Contract.

C. Nullification of Exhibit D (if applicable)

The parties agree that if the Contractor fails to comply with the provisions of Health and Safety Code (hereinafter referred to as HSC) Section 11758.46 including, without limitation, the deadlines in subsections (e) and (g)(2), Exhibit D shall be null and void and severed from the remainder of this Contract.

In the event Exhibit D becomes null and void, Budget #2, NNA only (Exhibit A1) will take effect reflecting the removal of DMC State General Fund (SGF), DMC Perinatal State General Fund (PSGF), and federal Medicaid funds from this Contract. Exhibit C of this Contract will remain in effect until amended or terminated.

D. Unenforceable Provisions

In the event any provision of this Contract is held invalid or unenforceable by any court of competent jurisdiction, the holding will not invalidate or render unenforceable any other provision hereof.

E. Use of State Funds

1. Contractor may not use or transfer SGF DMC funds allocated pursuant to Exhibit D to SGF discretionary funds allocated pursuant to Exhibit C or to pay for any non-DMC services.

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2. SGF provided by the California Department of Corrections and Rehabilitation (CDCR) through an interagency agreement shall be subject to specific expenditure requirements as stated in the “Services to California Department of Corrections and Rehabilitation Parolee Services Network,” Document 1D(a), incorporated by this reference.

**F. Contract Amendments**

1. Both the Contractor and the State may agree to amend or renegotiate the Contract.
2. Contract amendments will be required to change encumbered amounts for each year of a multi-year contract period.
3. If this Contract is based on the preliminary allocation, or rates and requirements issued before the passage of the applicable State Fiscal Year (FY) Budget Act and Trailer Bill(s), Contractor shall submit a contract amendment with a budget that reflects the revised allocation, rates, a plan for expenditure of prior year unexpended SGF, and other requirements within 60 days of the State’s release of the Budget Act Allocation. In the event the Contractor has not submitted a contract amendment with all required Contractor and Subcontractor fiscal detail within 60 days of the release of the Budget Act Allocation, State will withhold all NNA payments under Exhibit C of this Contract until the required amendment is received by the State.
4. Contract amendments may be submitted by the Contractor until May 1 of each of the contract’s fiscal years. An amendment proposed by either party shall be forwarded in writing to the other party.
  - (a) The proposed amendment submitted by Contractor shall include revised County Prevention and Treatment Programs Fiscal Summary and Provider Fiscal Detail Forms, Exhibit A1, and a statement of the reason and basis for the proposed change.
  - (b) Amendments shall be duly approved by the County Board of Supervisors or its authorized designee, and signed by a duly authorized representative.

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5. No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.
6. Contractor acknowledges that any newly allocated funds that are in excess of the initial amount for each fiscal year may be forfeited if the State does not receive a fully executable contract amendment on or before June 30.

**G. Termination**

1. This Contract may be terminated by either party by delivering written notice of termination to the other party at least 30 days prior to the effective date of termination. The notice shall state the effective date of and reason for the termination. In the event of changes in law that affect provisions of this Contract, the parties agree to amend the affected provisions to conform to the changes in law retroactive to the effective date of such changes in law. The parties further agree that the terms of this Contract are severable and in the event that changes in law render provisions of the Contract void, the unaffected provisions and obligations of this Contract will remain in full force and effect.
2. State may terminate this Contract immediately for cause. The term “for cause” means that the Contractor failed to meet the terms, conditions, and/or responsibilities of the Contract. State shall provide the Contractor with written notice of the termination, including the effective date and reason for the termination. The termination of the Contract shall be effective as of the date indicated in the written notice.
3. The following additional provisions regarding termination apply only to Exhibit D of this Contract:
  - (a) In the event the Federal Department of Health and Human Services (hereinafter referred to as DHHS), the California Department of Health Services (hereinafter referred to as DHS), or State determines Contractor does not meet the requirements for participation in the DMC Program, State will terminate payments for services provided pursuant to Exhibit D of this Contract for cause.
  - (b) All obligations to provide covered services under this Contract will automatically terminate on the effective date of any termination of this Contract. Contractor will be responsible for providing or arranging for covered services to beneficiaries until the effective date of termination or expiration of the Contract.

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Contractor will remain liable for processing and paying invoices and statements for covered services and utilization review requirements prior to the expiration or termination until all obligations have been met.

- (c) In the event payment for services under Exhibit D of this Contract are terminated, Contractor shall refer DMC clients to providers who are certified to provide the type(s) of services the client has been receiving.
- 4. In the event this Contract is terminated, Contractor shall deliver all of its fiscal and program records pertaining to the performance of this Contract to the State, which will retain the records for the required retention period.

### H. Audit

- 1. In addition to the audit requirements in Exhibit C and D, this Contract, and any Subcontracts, shall be subject to the examination and audit by the California Bureau of State Audits for a period of three years from the date that final payment is made pursuant to the Contract (Government Code, Section 10527).
- 2. Contractor agrees that the State, the Comptroller General of the United States, and any authorized representatives have the right to review, obtain, and copy all records pertaining to the performance of this Contract. Contractor agrees to provide the State with any and all relevant information requested.
- 3. All expenditures of state and federal funds furnished to the Contractor and its Subcontractors pursuant to this Contract are subject to audit by the State. Such audits shall consider and build upon external independent audits performed pursuant to audit requirements of the Office of Management and Budget (OMB) Circular A-133 (Revised June 2003). Objectives of such audits may include, but not be limited to, the following:
  - (a) To determine whether units of service claimed/reported are properly documented by service records and accurately accumulated for claiming/reporting;
  - (b) To validate data reported by the Contractor for prospective contract negotiations;
  - (c) 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;

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- (d) To determine the cost of services, net of related patient and participant fees, third-party payments, and other related revenues and funds;
  - (e) To determine that expenditures are made in accordance with applicable state and federal laws and regulations and contract requirements; and/or
  - (f) 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 Contract objectives of Exhibit C or Exhibit D.
4. Contractor shall comply, and shall require that its Subcontractors comply, with all terms and conditions of this Contract and all pertinent state and federal statutes and regulations. Contractors and its Subcontractors shall permit the State, DHS, DHHS, Comptroller General of the United States, or other authorized state or federal agencies and representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this Contract. Contractor shall allow the State, DHS, DHHS, the Comptroller General of the United States, and other authorized state or federal agencies and representatives to review and copy any and all books and records maintained by the Contractor and its Subcontractors related to these services at any time during normal business hours. Unannounced visits may be made at the discretion of the State. Employees who might reasonably have information related to such records may be interviewed.
5. The refusal of the Contractor or its Subcontractors to permit access to and inspection of books, records, and facilities, or interviews with employees, as described in this part constitutes an express and immediate material breach of this Contract and will be sufficient basis to terminate the Contract for cause or default.

**I. Debarment and Suspension Certification**

- 1. By signing this agreement, Contractor agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 45 CFR 76.200 and 48 CFR 52.209.5.
- 2. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:
  - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

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- (b) 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) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) 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 2(b) herein;
  - (d) 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;
  - (e) 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; and.
  - (f) Will include without modification, the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transaction", (i.e., transactions with subgrantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 45 CFR Part 76.
3. If the Contractor is unable to certify to any of the statements in this certification, Contractor shall submit an explanation to the AOD program funding this Contract.
  4. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.
  5. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, State may terminate this contract for cause or default.

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**J. Lobbying and Restrictions and Disclosure Certification**

Applicable to federally funded contracts in excess of \$100,000 per Title 31, USC, Section 1352 and 45 CFR Part 93:

**1. Certification and Disclosure Requirements**

- (a) Each person (or recipient) who requests or receives a contract, subcontract, grant, or subgrant, which is subject to Title 31, USC, Section 1352, and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Exhibit C, Document 1W, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph 2 of this provision.
- (b) Each recipient shall file a disclosure (in the form set forth in Exhibit C, Document 1X, entitled "Standard Form – LLL – Disclosure of Lobbying Activities") if any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence any officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this federal grant.
- (c) Each recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- (d) 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 1 (b) herein. An event that materially affects the accuracy of the information reported includes:
  - i 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;
  - ii A change in the person(s) or individual(s) influencing or attempting to influence a covered federal action;
  - iii 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;

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- iv Each person (or recipient) who requests or receives from a person referred to in Paragraph 1(a) of this provision a contract, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or grant shall file a certification, and a disclosure form, if required, to the next tier above; and
- v All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph 1(a) of this provision. That person shall forward all disclosure forms to AOD program contract manager.

### 2. Prohibition

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

### K. Restrictions on Salaries

Contractor agrees that no part of any federal funds provided under this Contract shall be used by the Contractor or its Subcontractors to pay the salary of an individual at a rate in excess of Level 1 of the Executive Schedule. Salary schedules may be found at <http://www.opm.gov/oca>.

Reference: Terms and Conditions of the Substance Abuse Prevention and Treatment (SAPT) Block Grant award.

### L. Child Support Compliance Act

Contractor acknowledges that it:

1. Recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the California Family Code; and
2. To the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment

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Development Department.

**M. Union Organizing**

Contractor, by signing this Agreement, hereby acknowledges the applicability of California Government Code Sections 16645 through Section 16649 to this Contract.

1. Contractor will not assist, promote, or deter union organizing by employees performing work on a state service contract, including a public works contract.
2. No state funds received under this Contract will be used to assist, promote, or deter union organizing.
3. Contractor will not, for any business conducted under this Contract, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing unless the state property is equally available to the general public for holding meetings.
4. If the Contractor incurs costs, or makes expenditures to assist, promote, or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and the Contractor shall provide those records to the Attorney General upon request.

**N. Primary Prevention**

Prevention is defined as 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 is to promote safe and healthy behaviors and environments for individuals, families and communities.

The Contractor shall expend not less than its allocated amount of the SAPT Block Grant on "primary prevention" for individuals who do not require treatment for alcohol and other drug use as described in the SAPT Block Grant requirements (45 CFR 96.125). Inappropriate use of these funds for non-primary prevention services will require repayment of SAPT Block Grant funds.

This contract and any subcontract shall meet data reporting requirements for capacity, process and outcome as required by federal grant requirements. The data will use the Institute of Medicine prevention categories of universal, selective and indicated.

1. Universal prevention strategies address an entire population (national, local community, school, workplace, neighborhood), to prevent or delay AOD use and/or abuse.

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2. Selective prevention strategies address an entire subset of the total population that is at higher risk for AOD use and/or abuse.
3. Indicated prevention strategies are designed to prevent/delay the onset of and/or reduce severity of alcohol and other drug use and/or abuse in individuals who are exhibiting early signs of sub-clinical alcohol and other drug use and/or abuse and other problem behaviors associated with alcohol and other drug use and/or abuse or who are exhibiting risk factors that increase their chances of developing an AOD problem.

Contractor agrees to coordinate and transition to the Strategic Prevention Framework (SPF) under this Contract and shall provide evidence of engagement in these practices as requested by the State. Use of the SPF is mandatory for all counties beginning FY 2007-2008 and SPF required data must be submitted via California Outcomes Measure Systems (CalOMS) Prevention as evidence of engagement and use of the practices. Adherence to the SPF by subcontractors is at the discretion of the subcontracting county. The SPF five-step approach is as follows:

1. **Assessment** – Profile population needs, resources, and readiness to address problems and gaps in service delivery. This involves the: 1) collection, interpretation and analysis of relevant data to define the magnitude and locations of problems within a geographic area/community and identify at risk and underserved populations and environmental risks; 2) assessment of resources which includes cultural competence, identification of service gaps and the identification of existing prevention infrastructure; and, 3) assessment of readiness and leadership to implement and sustain policies, programs and practices. The assessment results should establish priorities, define terms to assure consensus of understanding and establish a purpose that unifies commitment through the following SPF steps.
2. **Capacity** – Mobilize and/or build capacity to address need. This involves mobilization of resources within a geographic area to address assessed needs. Capacity includes both financial and organizational resources, as well as convening partnerships/coalitions. Readiness, cultural competency and leadership capacity are addressed and strengthened through education and training. Additionally, capacity should focus on sustainability as well as evaluation.
3. **Planning** – Develop a comprehensive strategic plan. This involves applying assessment results to develop a strategic plan that includes policies, programs, and practices based on evidence-based theories. The plan should address issues/problems and priorities identified during assessment as well as resources required. The planning process produces strategic goals, objectives, measurements and performance targets as well as logic models. Plans include milestones and measurable outcomes against which to monitor and gauge performance for both accountability and system improvements. Sustainability should be addressed at every planning and implementation step.

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4. Implementation – Implement evidence-based programs and infrastructure activities. This involves taking actions guided by a strategic plan to implement policies, programs and practices proven to be effective and culturally appropriate. The National Registry of Evidence-Based Programs and Practices (NREPP) is one source of evidenced-based programs; however, it contains few prevention policies or practices. This phase also includes creation of an evaluation plan and collection of process measure data.
5. Evaluation – Monitor, evaluate, sustain and improve or replace those that fail. This involves ongoing measuring of process and outcome data of the implemented programs, policies and practices for effectiveness and sustainability. The data is used to continuously refine and improve prevention services, effectively apply resources, and appropriately develop the work force.

### O. Confidentiality and Security of Information

1. 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 Contract or persons whose names or identifying information become available or are disclosed by 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.
2. Contractor and its Subcontractors that provides services covered by this Contract shall comply with all applicable state and federal statutes and regulations regarding confidentiality, including, but not limited to, the confidentiality and security of information requirements in the following:
  - 42 USC Section 290 dd-2
  - Title 42, CFR Part 2
  - Title 45, CFR Part 96, Sec. 96.132(e)
  - Title 42, USC 1320(a)
  - Title 42, USC 1320(d)-1320(d)(8)
  - Welfare and Institutions Code (hereinafter referred to W&IC), Section 14100.2, which is specific to Medi-Cal
  - Section 11977 of the HSC
  - Title 22, California Code of Regulations (hereinafter referred to as Title 22), Section 51009, which is specific to Medi-Cal
  - Title 45, CFR Parts 160, 162, and 164 - the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules

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- Civil Code Section 56 through 56.37 – Confidentiality of Medical Information Act
  - HSC Section 123110 through 123149.5 – Patient Access to Health Records
  - Civil Code Section 1798.85 – Confidentiality of Social Security Numbers
  - Civil Code Sections 1798.80 through 1798.82 – Customer Records (breach of security)
3. Contractor is required to have in effect a system to protect from inappropriate disclosure patient records maintained in connection with any activity funded under this Contract. This system shall include provisions for employee education on the confidentiality requirements and the fact that disciplinary action may occur upon inappropriate disclosures. Contractor agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of all confidential information that it creates, receives, maintains or transmits. Contractor will provide the State with information concerning such safeguards as the State may reasonably request from time to time.
  4. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of confidential information by the Contractor or its Subcontractors or agents in violation of the applicable state and federal statutes and regulations regarding confidentiality cited above.
  5. Contractor shall monitor compliance with the above provisions on confidentiality and security and shall include them in all subcontracts.
  6. Contractor shall notify the Information Security Officer, Executive Branch, of the State within twenty-four (24) hours during a work week of any suspected or actual breach of computer system security, if the security breach would require notification under Civil Code Section 1798.82. Contractor agrees to materially assist the State in any action pertaining to such unauthorized disclosure required by applicable federal or state laws.

### P. Nondiscrimination in Employment

1. During the performance of this Contract, Contractor and its Subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Contractors and its Subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination. Contractors and its Subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.)

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The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its Subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

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

2. Contractor agrees to post, and further agrees to require its Subcontractors to post, in conspicuous places, notices available to all employees and applicants for employment setting forth the provisions of the Equal Opportunity Act [42 USC 2000(e)] in conformance with Federal Executive Order No. 11246, Section 503 of the Rehabilitation Act of 1973 (as amended) and the affirmative action clause required by the Vietnam Era Veterans' readjustment Assistance Act of 1974 (38 U.S.C. 4212). Contractor agrees to comply, and further agrees to require its Subcontractors to comply, with the provisions of the Rehabilitation Act of 1973 (Section 503) (29 USC 794).

### Q. Nondiscrimination in Services

1. By signing this Contract, Contractor certifies under the laws of the State of California that the Contractor and its Subcontractors shall not unlawfully discriminate in the provision of services because of race, color, creed, national origin, sex, age, or physical, sensory, cognitive, or mental disability as provided by state and federal law and in accordance with Title VI of the Civil Rights Act of 1964 [42 USC 2000(d)]; Age Discrimination Act of 1975 (42 USC 6101); Section 504 of the Rehabilitation Act of 1973 (29 USC 794) (as amended); Education Amendments of 1972 (20 USC 1681); Americans with Disabilities Act of 1990 (42 USC 12101); Title 45, CFR, Part 84; provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.); and regulations promulgated thereunder (Title 2, CCR, Section 7285.0 et seq.); Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135; and Chapter 6 of Division 4 of Title 9 of the CCR, commencing with Section 10800.
2. For the purpose of this Contract, discrimination on the basis of race, color, creed, national origin, sex, age, or physical, sensory, cognitive, or mental disability includes, but is not limited to, the following: denying an otherwise eligible individual any service or providing a benefit which is different, or is provided in a different manner or at a different time, from that provided to others under this Contract; subjecting any otherwise eligible individual to segregation or separate treatment in any matter related to the receipt of any service; restricting an otherwise eligible individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and/or treating any individual differently from others in

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determining whether such individual satisfied any admission, enrollment, eligibility, membership, or other requirement or condition which individuals shall meet in order to be provided any service or benefit.

3. Contractor shall, on a cycle of at least every three years, assess, monitor, and document each Subcontractor's compliance with the Section 504 of the Rehabilitation Act of 1973 (as amended) and Americans with Disabilities Act of 1990 to ensure that recipients/beneficiaries and intended recipients/beneficiaries of services are provided services without regard to physical or mental disability. Contractor shall also monitor to ensure that beneficiaries and intended beneficiaries of service are provided services without regard to race, color, creed, national origin, sex, or age.

Contractor shall include nondiscrimination and compliance provisions in all subcontracts. Contractor shall establish written procedures under which service participants are informed of their rights including their right to file a complaint alleging discrimination or a violation of their civil rights. Participants in programs funded hereunder shall be provided a copy of their rights that shall include the right of appeal and the right to be free from sexual harassment and sexual contact by members of the treatment, recovery, advisory, or consultant staff.

4. No state or federal funds shall be used by the Contractor or its Subcontractors for sectarian worship, instruction, or proselytization. No state funds shall be used by the Contractor or its Subcontractors to provide direct, immediate, or substantial support to any religious activity.
5. Noncompliance with the requirements of nondiscrimination in services shall constitute grounds for state to withhold payments under this Contract or terminate all, or any type, of funding provided hereunder.

**R. No Unlawful Use or Unlawful Use Messages Regarding Drugs**

Contractor agrees that information produced through these funds, and which pertains to drug- 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 Section 11999). By signing this Contract, Contractor agrees that it will enforce, and will require its Subcontractors to enforce, these requirements.

**S. Smoking Prohibition Requirements**

Contractor shall comply, and require that its Subcontractors comply, with Public Law 103-227, also known as the Pro-Children Act of 1994 (20 USC Section 6081, et seq.), which 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

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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 Women, Infants, and Children (WIC) coupons are redeemed.

**T. Adherence to Computer Software Copyright Laws**

Contractor certifies that it has appropriate systems and controls in place to ensure that state or federal funds available under this Contract will not be used for the acquisition, operation or maintenance of computer software in violation of copyright laws. (Reference: Executive Order D-10-99 and Department of General Services (DGS) Management Memo 00-02).

**U. Noncompliance with Reporting Requirements**

Contractor agrees that the State has the right to withhold payments until Contractor has submitted any required data and reports to the State, as identified in Exhibit C, Document 1F, Requirements for Data by Date.

**V. Conflict of Interest**

Contractor acknowledges that state laws on conflict of interest, found in the Political Reform Act, Public Contract Code Section 10365.5, and Government Code Section 1090, apply to this Contract.

**W. Disputes**

Contractor shall continue to carry out its responsibilities under this Contract during any disputes.

**X. Assignment**

This Contract is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written agreement.

**Y. Indemnification**

Contractor agrees to indemnify, defend and save harmless the Department and the State of California, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Contract and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Contract.

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**Z. Independent Contractor**

Contractor, and the agents and employees of the Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers, employees, or agents of State.

**AA. Timeliness**

Time is of the essence in this Contract.

**BB. Limitation on Use of Funds for Promotion of Legalization of Controlled Substances**

None of the funds made available through this Contract 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).

**CC. Restriction on Distribution of Sterile Needles**

No funds made available through this Contract shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

**DD. Health Insurance Portability and Accountability Act of 1996**

All DMC claims shall be submitted in electronic HIPAA compliant format (837P) and shall be submitted through the Department of Mental Health's Informational Technology Web Service (ITWS) system. Refer to the Department of Alcohol and Drug Programs (ADP) Bulletin 05-10 for further details (Document 3F).

All submitted claims shall meet ADP HIPAA testing and certification requirements. When Contractor or subcontractor completes its testing and certification process, only HIPAA compliant claims will be allowed for submission to ADP. Refer to ADP Bulletin 05-03 for further details (Document 3E).

The Department will return all non-HIPAA compliant DMC claims to the submitter. Returned claims will not be processed until submitted in the HIPAA compliant format; therefore, reimbursement will not be issued.

If any of the work performed under this Contract is subject to the Health Insurance Portability Act of 1996, Public Law 104-191, then Contractor shall perform the work in compliance with all applicable provisions of HIPAA. Refer to the HIPAA Business Associate Agreement (BAA) in which the County is the Business Associate of the Department (Document 3K), and the HIPAA BAA in which the Department is the Business Associate of the County (Document 3L). Contractor and the State will cooperate to: (1) determine what work, if any, may be impacted by HIPAA, and (2) amend this Contract if needed to assure compliance with HIPAA.

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**1. Trading Partner Requirements**

- (a) **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 DHHS Transaction Standard Regulation. (45 CFR Part 162.915.(a))
- (b) **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 DHHS Transaction Standard Regulation. (45 CFR Part 162.915 (b))
- (c) **No Authorized 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 DHHS Transaction’s Implementation specification or are not in the DHHS Transaction Standard’s implementation specifications. (45 CFR Part 162.915 (c))
- (d) **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 DHHS Transaction Standard’s implementation specification. (45 CFR Part 162.915 (d))

**2. Concurrence for Test Modifications to DHHS Transaction Standards.** County agrees and understands that there exists the possibility that ADP or others may request an extension from the uses of a standard in the DHHS Transaction Standards. If this occurs, County agrees that it will participate in such test modifications.

**3. 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.

**4. Deficiencies.** County agrees to cure transactions errors or deficiencies identified by the State, 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.

**5. 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.

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6. Data Transmission Log. Both Parties shall establish and maintain a Data Transmission Log, which shall record any and all Data Transmission taking place between the Parties during the term of this Contract. 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 data 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 timely retrieved and presented in readable form.

**EE. Procurement Rules**

(Applicable to all Contracts in which equipment, miscellaneous property, commodities and/or supplies are furnished by the State or expenses for said items are reimbursed with state or federal funds.)

1. Equipment Definitions

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

- (a) Major equipment: 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 ADP or the cost is reimbursed through this agreement. Software and videos are examples of intangible items that meet this definition.
  - (b) Minor equipment: 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 the State or the cost is reimbursed through this Contract.
  - (c) Miscellaneous property: A specific tangible item with a life expectancy of one (1) year or more that is either furnished by the State or the cost is reimbursed through this Contract. Examples include, but are not limited to: furniture (excluding modular furniture), cabinets, typewriters, desktop calculators, portable dictators, non-digital cameras, etc.
2. 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 Contract. Said procurements are subject to Paragraphs 4 through 8 of this provision. Paragraph 3 of this provision shall also apply, if equipment purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

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3. Nonprofit organizations and commercial businesses, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment and services related to such purchases for performance under this Contract.
  - (a) Equipment purchases shall not exceed \$50,000 annually.
  - (b) All equipment purchases are subject to Paragraphs 4 through 8 of this provision. Paragraph 2 of this provision shall also apply, if equipment purchases are delegated to subcontractors that are either a government or public entity.
  - (c) Nonprofit organizations and commercial businesses shall use a procurement system that meets the following standards:
    - i Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement contract in which, their knowledge, they have a financial interest.
    - ii Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
    - iii Procurements shall be conducted in a manner that provides for all of the following:
      - [1a] Avoid purchasing unnecessary or duplicate items.
      - [2a] Equipment solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
      - [3a] Take positive steps to utilize small and veteran owned businesses.
4. Unless waived or otherwise stipulated in writing by the State, prior written authorization from the appropriate AOD program contract manager will be required before the Contractor or Subcontractor may make a purchase of \$5,000 or more for commodities, supplies, equipment, and services related to such purchases. Contractor shall provide in its request for authorization all particulars necessary, as specified by the State, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from its Subcontractors and public utility services at rates established for uniform applicability to the general public.

5. In special circumstances, determined by the State (e.g., when the State has a need to monitor certain purchases, etc.), the State may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. The State reserves the right to request repayment for any Contractor and/or its Subcontractors purchase that the State determines to be unnecessary in carrying out performance under this agreement.
6. Contractor and/or its Subcontractors shall 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 its Subcontractors at any time.
7. For all purchases, Contractor and/or its Subcontractors shall 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 its Subcontractors for inspection or audit.
8. The State may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs 2 and/or 3 of this provision by giving the Contractor no less than thirty (30) calendar days written notice.

**FF. Equipment Ownership/Inventory/Disposition**

(Applicable to Contracts in which equipment and/or miscellaneous property is furnished by the State and/or when said items are purchased or reimbursed with state or federal funds.)

1. Wherever the term equipment and/or miscellaneous property is used in this provision, the definitions in the provision for Procurement Rules, Paragraph 1 shall apply.

All equipment and/or miscellaneous property that are purchased/reimbursed with Contract funds or furnished by the State under the terms of this agreement and not fully consumed in performance of this Contract shall be considered State equipment and the property of the State.

- (a) The State requires the reporting, tagging, and annual inventorying of all equipment and/or miscellaneous property that is furnished by the State or purchased/reimbursed with funds provided through this Contract.

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- Upon receipt of equipment and/or miscellaneous property, Contractor shall report the receipt to the AOD program contract manager and receive State property tags.
- (b) If the Contractor enters into an agreement with a term of more than twelve months, Contractor shall submit an annual inventory of State equipment and/or miscellaneous property to the AOD program contract manager. Contractor shall:
- (i) Include in the inventory report, equipment and/or miscellaneous property in the Contractor's possession and/or in the possession of its Subcontractor (including independent consultants).
  - (ii) Contact the AOD program contract manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or miscellaneous property that is no longer wanted, usable or has passed its life expectancy.
2. Title to State equipment and/or miscellaneous property shall not be affected by its incorporation or attachment to any property now owned by the State.
  3. Unless otherwise stipulated, in writing, the State shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor and/or its Subcontractors' facility, which may be affected by the removal of any State equipment and/or miscellaneous property.
  4. Contractor and/or its Subcontractors shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of State equipment and/or miscellaneous property.
    - (b) In administering this provision, the State may require the Contractor and/or its Subcontractors to repair or replace, to the State's satisfaction, any damaged, lost or stolen state equipment and/or miscellaneous property. Contractor and/or its Subcontractors shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and the Contractor shall promptly submit one copy of the theft report to the AOD program contract manager.
  5. Unless otherwise stipulated by the program funding this Contract, equipment and/or miscellaneous property purchased/reimbursed with Contract funds or furnished by the State under the terms of this Contract, shall only be used for performance of this Contract or another State Contract.

6. Within sixty (60) calendar days prior to the termination or end of this agreement, Contractor shall provide a final inventory report of equipment and/or miscellaneous property to the AOD program contract manager and shall, at that time, query the State as to the requirements, including the manner and method, of returning State equipment and/or miscellaneous property to the State. Final disposition of equipment and/or miscellaneous property shall be at the State expense and according to the State instructions. Equipment and/or miscellaneous property disposition instructions shall be issued by the State immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, the State may at its discretion, authorize the continued use of state equipment and/or miscellaneous property for performance of work under a different State agreement.

7. Motor Vehicles

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by the State under this agreement.

- (a) If motor vehicles are purchased/reimbursed with agreement funds or furnished by the State under the terms of this agreement, within thirty (30) calendar days prior to the termination or end of this agreement, Contractor and/or its Subcontractors shall return such vehicles to the State and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to the State.
- (b) If motor vehicles are purchased/reimbursed with agreement funds or furnished by the State 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. Contractor and/or its Subcontractors may only use said vehicles for performance and under the terms of this agreement.
- (c) Contractor and/or its Subcontractors agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by ADP 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.
- (d) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by the State under the terms of this agreement, Contractor and/or its Subcontractors, 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 period of contract extension during which any vehicle remains in the Contractor's and/or its Subcontractor's possession.

**8. Automobile Liability Insurance**

- (a) Contractor, by signing this Contract, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined or has a program of adequate self-insurance. Said insurance shall be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by the State under the terms of this agreement to the Contractor and/or its Subcontractors.
- (b) Contractor shall, as soon as practical, furnish a copy of the certificate of insurance or a letter of self-insurance to the AOD program contract manager. Subcontractors shall, as soon as practical, furnish a copy of the certificate of insurance to the AOD program contract manager.
- (c) Contractor agrees that bodily injury and property damage liability insurance or a program of self-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 the State. Subcontractors 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 the State.
- (d) Contractor and/or its Subcontractors agree to provide, at least thirty (30 days) prior to the expiration date of said insurance coverage, a copy of a new certificate or 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) Contractor and/or its Subcontractors, if not a self-insured government and/or public entity, shall provide evidence, that any required certificates of insurance contain the following provisions:
  - i. The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State.
  - ii. The State of California, it's officers, agents, employees, and servants are included as additional insured's, but only with respect to work performed for the State under this agreement and any extension or continuation of this agreement.

- iii. The insurance carrier shall notify the State of California, Department of Alcohol and Drug Programs, 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 the Contract number for which the insurance was obtained.
- (f) Contractor and/or its Subcontractors are hereby advised that copies of certificates of insurance may be subject to review and approval by the DGS, Office of Risk and Insurance Management. The Contractor shall be notified by the State, in writing, if this provision is applicable to this agreement. If DGS approval of the certificate of insurance is required, Contractor agrees that no work or services involving the motor vehicle shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or its Subcontractors fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, the State may, in addition to any other remedies it may have, terminate this agreement upon the occurrence of such event.

**GG. 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 its Subcontractors, the Contractor shall provide and shall require its 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.

**HH. California Outcomes Measurement Systems (CalOMS)**

- 1. The Contractor shall:
  - (a) Conduct information technology (IT) systems testing and pass State certification testing before commencing submission of treatment data. If the Contractor subcontracts with vendor for IT services, Contractor shall document evidence that contracted IT system is tested and certified by the State. If contractor changes or modifies CalOMS-Treatment IT system, then contractor shall re-test and pass state certification prior to submitting data from new or modified system. Contractor must meet all data submission requirements.

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- (b) Participate in CalOMS informational meetings, training, and readiness meetings for both prevention and treatment.
- (c) Implement and maintain a method for collecting and electronically submitting data for CalOMS treatment or subcontract for services to submit CalOMS treatment data electronically, beginning no later than January 1, 2006.
- (d) Meet the requirements as outlined in the HIPAA Business Associate Agreement in which the County is the Business Associate of the Department (Document 3K). In addition to the County being the Business Associate of the Department, the Department is the Business Associate of the County in which the Department's requirements are outlined in the HIPAA BAA in which the Department is the Business Associate of the County (Document 3L).

2. The following business rules for the electronic submission of CalOMS treatment and prevention data are:

- (a) Collection and electronic submission of CalOMS treatment data shall begin on or before January 1, 2006.
- (b) Collection and submission of CalOMS prevention data by counties and their funded prevention providers shall begin on July 1, 2006. Prevention data is to be submitted via CalOMS Prevention as the services occur.
- (c) All CalOMS prevention data shall be reviewed by each county and released to the State no later than the end of the first month following the close of each quarter. The reporting quarters are: July through September, October through December, January through March, and April through June.
- (d) Electronic submission of CalOMS treatment data is due 45 days from the end of the last day of the report month.
- (e) If the Contractor cannot submit electronic prevention data by the established due dates, the Contractor shall submit a written request for an extension. The written request shall be approved by the State prior to the established due date. ~~Failure to submit data or receive a State approved extension by the established due dates will result in the three-letter warning process as described in Section (e) above.~~
- (f) If the Contractor experiences system or service failure or other extraordinary circumstances that affect its ability to submit data, the Contractor shall report the problem in writing by the monthly treatment data deadline or the quarterly prevention data deadline. The written notice shall include a remediation plan that is subject to review and

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approval by the State. A grace period of up to sixty (60) days may be granted to resolve the problem before NNA payments are withheld.

- (g) If the State experiences system or service failure, no penalties will be assessed to Contractor for late data submission.
- (h) Contractor shall comply with the treatment and prevention data quality standards established by the State. Failure to meet these standards on an ongoing basis may result in withholding NNA funds.
- (i) If the Contractor submits data after the established deadlines, due to a delay or problem, Contractor is still responsible for collecting and reporting data from time of delay or problem.

### II. Drug and Treatment Access Report (DATAR)

#### 2.1. The Contractor shall:

- (a) Be responsible for ensuring that all treatment providers with whom Contractor make a contract or otherwise pays for the services, and who are required to report CalOMS treatment client data, submit a monthly DATAR report in an electronic or hardcopy format as provided by the State.
- (b) Ensure that all DATAR reports are submitted to the State by the 10<sup>th</sup> of the month following the report activity month.
- (c) Enroll its providers in the State's web-based DATARWeb program by the date to be specified by the State, and to submit data in an electronic format only by the date specified.
- (d) In those instances where the Contractors maintain, either directly or indirectly, a central intake unit or equivalent which provides intake services including a waiting list, the Contractor shall identify and begin submitting monthly DATAR reports for those central intake units by a date to be specified by the State.

#### 2.2 Noncompliance Provision

- (a) The Contractor shall be considered compliant if a minimum of 95% of required DATAR reports from the Contractor's treatment providers are received by the due date.

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**JJ. Domestic Partners Act**

Pursuant to Public Contract Code 10295.3, no state agency may enter into any contract executed or amended after January 1, 2007, for the acquisition of goods or services in the amount of \$100,000 or more with a contractor who, in the provision of benefits, discriminates between employees with spouses and employees with domestic partners, or discriminates between domestic partners and spouses of those employees.

**KK. Nondiscrimination and Institutional Safeguards for Religious Providers**

Contractor shall establish such processes and procedures as necessary to comply with the provisions of Title 42, USC, Section 300x-65 and Title 42, CFR, Part 54, (Reference Document 1B).

**LL. Force Majeure**

Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight, embargo, public related utility, or governmental statutes or regulations super-imposed after the fact. If a delay or failure in performance by the Contractor arises out of a default of its Subcontractor, and if such default of its Subcontractor, arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

**MM. Counselor Certification**

Any individual providing intake, assessment of need for services, treatment or recovery planning, individual or group counseling to participants, patients, or residents in an ADP licensed or certified program is required to be certified as defined in CCR, Title 9, Division 4, Chapter 8. (Document 3H)

**NN. Limited English Proficiency**

To ensure equal access to quality care by diverse populations, the provider shall:

1. Promote and support the attitudes, behaviors, knowledge, and skills necessary for staff to work respectfully and effectively with clients and each other in a culturally diverse work environment.

2. Have a comprehensive management strategy to address culturally and linguistically appropriate services, including strategic goals, plans, policies, procedures, and designated staff responsible for implementation.
3. Develop and implement a strategy to recruit, retain and promote qualified, diverse and culturally competent administrative, clinical, and support staff that are trained and qualified to address the needs of the racial and ethnic communities being served.
4. Require and arrange for ongoing education and training for administrative, clinical, and support staff in culturally and linguistically competent service delivery.
5. Provide all clients with limited English proficiency access to bilingual staff or interpretation services.
6. Provide oral and written notices, including translated signage at key points of contact, to clients in their primary language informing them of their right to receive no-cost interpreter services.
7. Translate and make available signage and commonly-used written client educational material and other materials for members of the predominant language groups in the service area.
8. Ensure that interpreters and bilingual staff can demonstrate bilingual proficiency and receive training that includes the skills and ethics of interpreting, and knowledge in both languages of the terms and concepts relevant to clinical or non-clinical encounters. Family or friends are not considered adequate substitutes because they usually lack these abilities.
9. Ensure that the clients' primary spoken language and self-identified race/ethnicity are included in the provider's management information system as well as any client records used by provider staff.

**OO. Intravenous Drug Use (IVDU) Treatment**

Contractor shall ensure that individuals in need of IVDU treatment shall be encouraged to undergo AOD treatment (42 USC 300x-23(b) of PHS Act).

**PP. Tuberculosis Treatment**

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

1. Routinely makes available TB services to each individual receiving treatment for alcohol and other drug use and/or abuse;
2. Reduce barriers to patients' accepting TB treatment; and

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3. Develop strategies to improve follow-up monitoring, particularly after patients leave treatment, by disseminating information through educational bulletins and technical assistance.

**QQ. Subcontract Provisions**

**Contractor shall include all the foregoing provisions in all of its subcontracts.**

**NEGOTIATED NET AMOUNT**

**ARTICLE I. FORMATION AND PURPOSE**

**A. Authority**

State and the Contractor enter into Exhibit C by authority of Chapters 3.3 of Part 1, Division 10.5 of the Health and Safety Code (HSC) and with approval of Contractor's County Board of Supervisors (or designee) for the purpose of providing alcohol and drug services, which will be reimbursed pursuant to this Exhibit C. State and the Contractor identified in the Standard Agreement are the only parties to this Contract. This Contract is not intended, nor shall it be construed, to confer rights on any third party.

**B. Control Requirements**

1. Performance under the terms of Exhibit C is subject to all applicable federal and state laws, regulations, and standards. In accepting the State drug and alcohol combined program allocation pursuant to HSC Sections 11814(a) and (b), Contractor shall: (i) establish, and shall require its Subcontractors to establish, written accounting procedures consistent with the following requirements; and (ii) be held accountable for audit exceptions taken by the State against the Contractor and its Subcontractors for any failure to comply with these requirements:

- (a) HSC, Division 10.5, commencing with Section 11760;
- (b) Title 9, California Code of Regulations (CCR) (herein referred to as Title 9), Division 4, commencing with Section 9000;
- (c) Government Code Section 16367.8;
- (d) Government Code, Article 7, Federally Mandated Audits of Block Grant Funds Allocated to Local Agencies, Chapter 1, Part 1, Division 2, Title 5, commencing at Section 53130;
- (e) Title 42 United State Code (USC), Sections 300x-21 through 300x-35;
- (f) Title 31 USC Sections 7501 through 7507 and the Single Audit Act Amendments of 1996 (31 USC Sections 7501-7507) and the Office of Management and Budget (OMB) Circular A-133 revised on June 27, 2003;
- (g) Title 45, Code of Federal Regulations (CFR), Sections 96.30 through 96.33 and Sections 96.120 through 96.137;
- (h) Title 42, CFR, Sections 8.1 through 8.34;

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- (i) Title 21, CFR, Sections 1301.01 through 1301.93, Department of Justice, Controlled Substances; and
- (j) State Administrative Manual (SAM), Chapter 7200 (General Outline of Procedures).

Contractor shall be familiar with the above laws and regulations and shall assure that its Subcontractors are also familiar with such laws.

- 2. The provisions of Exhibit C are not intended to abrogate any provisions of law or regulation, or any standards existing or enacted during the term of this Contract.
- 3. Contractor shall adhere to the applicable provisions of Title 45, CFR, Part 96, Subpart L, in the expenditure of the Substance Abuse Prevention and Treatment (SAPT) Block Grant funds. Document 1A, 45 CFR 96, Subparts C and L, is incorporated by reference.
- 4. This Contract is subject to any additional restrictions, limitations, or conditions enacted by the federal or state government that affect the provisions, terms, or funding of this Contract in any manner.
- 5. Documents 1C, 1D(a), and 1D(b), incorporated by this reference, contain additional requirements that shall be adhered to by those Contractors that receive the types of funds specified by each document and referenced in Exhibit A1. These exhibits and documents are:
  - (a) Exhibit A1, which is comprised of the Fiscal Allocation Detail, the County Prevention and Treatment Programs Fiscal Summary and the Provider Fiscal Detail Forms;
  - (b) Document 1C, Driving Under the Influence Program Requirements;
  - (c) Document 1D(a), Services to California Department of Corrections and Rehabilitation (CDCR) - Parolee Services Network (PSN) Projects; and,
  - (d) Document 1D(b), SAPT – Female Offender Treatment Project
- 6. Contractor shall comply with the requirements contained in Document 1F, incorporated by this reference, "Requirements for Data by Date."
- 7. Contractor shall comply with the requirements for perinatal programs funded under Exhibit C contained in Document 1G, incorporated by this reference, "Perinatal Services Network Guidelines" until such time new Perinatal Services Network Guidelines are established and adopted. No formal amendment of this contract is required for the guidelines to apply.

8. Contractor shall comply with the requirements which address the collection of information required in the SAPT Block Grant contained in Document 1T, incorporated by this reference ("CalOMS Prevention User Manual"). The manual is updated quarterly and the most current version is available via the California Outcomes Measurement System (CalOMS) Prevention website at [www.kitsco.com/casupport/WebHelp/CalOMS\\_Manual.htm](http://www.kitsco.com/casupport/WebHelp/CalOMS_Manual.htm)). Prevention data is to be reported by all funded primary prevention providers as the services/activities occur. The data must be released to the Department of Alcohol and Drug Programs (ADP) the month following the end of each quarter.
9. Contractor should follow the guidelines in Document 1V, incorporated by this reference, "Youth Treatment Guidelines", in developing and implementing youth treatment programs funded under Exhibit C, until such time new Youth Treatment Guidelines are established and adopted. No formal amendment of this contract is required for the guidelines to apply.

**C. Contract Negotiation**

Contract negotiations may be conducted between the Contractor and the State through their authorized representative(s) each year of the multi-year contract period. Negotiations may be conducted at ADP, 1700 K Street, Sacramento, CA 95814 once during the multi-year contract period. In the alternative, negotiations may be conducted by correspondence.

ARTICLE II. DEFINITIONS

- A. The words and terms of this Contract are intended to have their usual meanings unless a particular or more limited meaning is associated with their usage pursuant to Division 10.5 of HSC, Section 11750 et seq., and Title 9, CCR, Section 9000 et seq. The following definitions shall apply to Exhibit C:
1. **"Available Capacity"** means the total number of units of service (bed days, hours, slots, etc.) that a Contractor actually makes available in the current fiscal year.
  2. **"Contractor"** means (a) the county identified in the Standard Agreement or (b) the department authorized by the County Board of Supervisors to administer alcohol and drug programs.
  3. **"Dedicated Capacity"** means the historically calculated service capacity, by modality, adjusted for the projected expansion or reduction in services, which the Contractor agrees to make available to provide non-drug medical (DMC) drug and alcohol services to persons eligible for Contractor services.
  4. **"Encumbered Amount"** means the amount reflected on the Standard Agreement of this Contract and supported by Exhibit A1, the County Prevention and Treatment Programs Fiscal Summary and Provider Fiscal Detail Forms as the Negotiated Net Amount (NNA).
  5. **"Final Allocation"** means the amount of funds identified in the last allocation letter issued by State for the current fiscal year.
  6. **"Modality"** means those necessary general activities identified in the Dedicated Capacity Reports included in the County Prevention and Treatment Programs Fiscal Summary and Provider Fiscal Detail Forms, Exhibit A1, to provide alcohol and/or drug prevention or treatment that conform to the services described in Division 10.5 of the HSC.
  7. **"Negotiated Net Amount"** means the contracted amount of funds for services agreed to by the State and the Contractor, less funds budgeted for DMC. The net amount reflects only those funds allocated to the Contractor by the State and the required county match for State General Funds (SGF) as reflected in the County Prevention and Treatment Programs Fiscal Summary and Provider Fiscal Detail Forms portion of the Exhibit A1. The NNA does not include other revenue budgeted by the Contractor such as client fees or revenue in excess of the required match for SGF. The cost per unit for the dedicated capacity to be provided for each service modality identified in the Contract will be based on the net amount of the contract. Exhibit A1 will be used as a negotiating document.
  8. **"Performance"** means providing the dedicated capacity in accordance with Exhibit A1 and abiding by the terms of Exhibits B and C of this Contract, including all applicable state and federal statutes, regulations, and standards, including Alcohol and/or Other Drug Certification Standards

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(Document 1P), in expending funds for the provision of alcohol and drug services hereunder.

9. **"Preliminary Settlement"** means the initial settlement of non-DMC funding and PSN Services Network funding through the cost report settlement process.
10. **"Revenue"** means Contractor's income from sources other than the State allocation and the required county match.
11. **"Service Element"** is the specific type of service performed within the more general service modalities. A list of the service modalities and service elements and service elements codes is incorporated into this Contract as Document 1H(a) and Document 1H(b), "Service and Program Codes, and Service Code Descriptions."
12. **"State"** means the California Department of Alcohol and Drug Programs.
13. **"Unit of Service"** means the type of unit used to quantify the service modalities/elements in the dedicated capacity reports. The units of services are listed below:

Support Services	staff hours
Primary Prevention Services	staff hours
Secondary Prevention Services	staff hours
Nonresidential Services (Outpatient and Aftercare)	staff hours
Intensive Outpatient Services (Day Care Rehabilitative)	visit days
Residential Treatment Services	bed days
Narcotic Treatment Program	
Inpatient Detoxification	bed days
Outpatient Detoxification	slot days
Narcotic Replacement Therapy	slot days
Methadone	
Ancillary Services	staff hours
Driving Under-the-Influence	persons served

14. **"Utilization"** means the total actual units of service used by clients and participants.

**ARTICLE III. FISCAL PROVISIONS**

**A. Funding Authorization**

1. Exhibit C is valid and enforceable subject to sufficient funds being made available to the State by the United States Government and subject to authorization and appropriation of sufficient funds pursuant to the State's Budget Act.
2. In the event the United States Government and/or the State Government do not authorize and appropriate sufficient funds for the State to allocate amounts pursuant to the Payment Provisions of Exhibit C, it is mutually agreed that the Contract shall be amended to reflect any reduction in the Payment Provisions and the Performance Provisions.
3. Contractor shall bear the financial risk in providing any alcohol and/or drug services covered by this Exhibit C.

**B. Payment Provisions**

1. The NNA shall be based on the projected cost of services less the projected revenues. The projected cost of services shall be based on historical data of actual costs and current capacity, which shall be provided to the State by the Contractor.
2. For each fiscal year, the total amount payable by the State to the Contractor under Exhibit C shall not exceed the encumbered amount. The funds identified for the fiscal years covered by Exhibit C 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 Contractor shall be limited to the amount identified in the final allocations issued by the State for that fiscal year or the NNA, whichever is less. Changes to encumbered funds will require written amendment to the Contract. State may settle costs for NNA services based on the year-end cost settlement report as the final amendment to the approved single state/county contract.
3. In the event a contract amendment is required pursuant to the preceding paragraph, Contractor shall submit to the State the contract exhibits requested by the State in order to initiate the contract amendment. Any such requested exhibits shall be forwarded to the State sixty (60) days after the State issues a notice of the State Budget Act allocation or any revised allocation with the exception of the final allocation. To the extent the Contractor is notified of the State Budget Act allocation prior to the execution of the Contract, the State and the Contractor may agree to amend the contract after the issuance of the first revised allocation.

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4. State shall reimburse the Contractor monthly in arrears an amount equal to one-twelfth of the amount encumbered for the NNA portion of the approved contract (Exhibit C) or the most recent allocation based on the Budget Act Allocation, whichever is less.

However, based on the expenditure information submitted by the counties in the Quarterly Federal Financial Management Report, State may adjust monthly payments of encumbered federal funds to extend the length of time (not to exceed 21 months) over which payments of federal funds will be made.

5. Monthly disbursements to the Contractor at the beginning of each fiscal year (FY) of the Contract shall be based on the preliminary allocation of funds, as detailed in Exhibit A1, County Prevention and Treatment Programs Fiscal Summary Detail.

Final allocations will reflect any increases or reductions in the appropriations as reflected in the Budget Act Allocation and any subsequent allocation revisions. To the extent that any amendment encumbers an amount that is less than the Budget Act Allocation, the monthly disbursements will reflect the lesser amount.

6. State may withhold monthly payments if the Contractor fails to timely submit reports and data required by the State, including but not limited to, reports required pursuant to Exhibit C, Article V. Upon the State's receipt of the complete and accurate reports, or data, Contractor's monthly payment shall commence with the next scheduled monthly payment, and shall include any funds withheld due to late submission of reports or data.

State may withhold monthly payments if the Contractor fails to submit the contract amendment, including the Contractor and its Subcontractors fiscal detail data that is due to the State within sixty (60) days after the release of the Budget Act Allocation.

7. Adjustments may be made to the total NNA of the Contract and amounts may be withheld from payments otherwise due to the Contractor hereunder, for nonperformance to the extent that nonperformance involves fraud, abuse, or failure to achieve the objectives of the provisions of Exhibit C.

**C. Accrual of Interest**

Any interest retained from SGF by the Contractor must be used for the purpose it was allocated.

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**D. Transfer of Money**

In a fiscal year, transfers by the Contractor of more than 10 percent of the contracted amount between modalities included in Exhibit C require an amendment to the Contract. Transfers of 10 percent or less of the contracted amount between modalities require prior written approval by the State and are subject to subsequent reporting by the Contractor to the State consistent with Article V reporting requirements when the transfers are between service elements. In determining whether to grant approval, State will consider the amount to be transferred, the modalities involved in the transfers, the need for the transfers, and the effect on the negotiated service delivery.

**E. Additional Audit Requirements**

1. Pursuant to OMB Circular A-133, Contractor shall require and ensure that its Subcontractors expending \$500,000 effective January 1, 2004, or more in federal funds in a fiscal year, has a single or program-specific audit performed with respect to the funds covered by Exhibit C.
  - (a) The audit shall be performed in accordance with OMB Circular A-133 (Revised June 2003), entitled "Audits of States, Local Governments, and Non-Profit Organizations."
  - (b) The audit shall be conducted in accordance with generally accepted auditing standards and Government Auditing Standards, 1994 Revision, issued by the Comptroller General of the United States.
  - (c) A copy of the audit performed in accordance with OMB Circular A-133 (Revised June 2003) shall be submitted to the State within 30 days of completion, but no later than nine months following the end of the Subcontractor's fiscal year.
  - (d) The cost of the audit made in accordance with the provisions of the most recent version of OMB Circular A-133 can be charged to applicable federal awards. Where apportionment of the audit cost is necessary, such apportionment shall be made in accordance with generally accepted accounting principles, but shall not exceed the proportionate amount that the award represents of the Subcontractor's total revenue.
  - (e) The work papers and the audit reports shall be retained for a minimum of three years from the date of the audit reports, and longer if the independent auditor is notified in writing by the State to extend the retention period.
  - (f) Audit work papers shall be made available upon request to the State, and copies shall be made as is reasonable and necessary.

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- (g) Contractor, in coordination with the State, shall ensure that its Subcontractor's follow-up and take all necessary corrective action on any audit findings in the single or program-specific audit report.
2. Pursuant to OMB Circular A-133, State may impose sanctions against the Contractor for not submitting required single or program-specific audit reports, or failure to comply with all other audit requirements. The sanctions shall include:
- (a) Withholding a percentage of federal awards until the audit is completed satisfactorily;
  - (b) Withholding or disallowing overhead costs;
  - (c) Suspending federal awards until the audit is conducted; or
  - (d) Terminating the federal award.
3. Pursuant to OMB Circular A-133, Contractor shall monitor the activities of all its Subcontractors to ensure that federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of the contracts or grant agreements, and that performance goals are achieved. Contractor shall ensure that its Subcontractors that expends more than the \$500,000 in total federal funds in a year complies with OMB Circular A-133 audit requirements.

Limited scope audits, on-site visits, and reviews of documentation supporting requests for reimbursement are monitoring procedures that are acceptable in meeting the Contractor's monitoring objectives. Also, Contractor may charge federal awards for the cost of these monitoring procedures.

- (a) Limited scope audits, as defined in the OMB Circular A-133, only include agreed-upon engagements that are (1) conducted in accordance with either the American Institute of Certified Public Accountant's generally accepted auditing standards or attestation standards; (2) paid for and arranged by pass-through entities (counties); and (3) address one or more of the following types of compliance requirements: (i) activities allowed or unallowed; (ii) allowable costs/cost principles; (iii) eligibility; (iv) matching, level of effort and earmarking; and (v) reporting.
- (b) On-site visits focus on compliance and controls over compliance areas. The reviewer must make site visits to the subrecipient's location(s), and document the visits using a checklist or program focusing on the compliance areas. All findings noted during the on-site monitoring shall be handled in the same manner as any exceptions noted during single or program-specific audits.

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- (c) Reviews of supporting documentation submitted by providers include, but are not limited to, reviews of copies of invoices, canceled checks, and time sheets. Prior to reimbursement the reviewer shall determine if the costs are allowable under the terms of the federal award.
- 4. Reports of audits conducted by the State shall reflect all findings, recommendations, adjustments, and corrective action as a result of its findings in any areas.
- 5. Contractor shall be responsible for any disallowance taken by the Federal Government, the State, or the Bureau of State Audits, as a result of any audit exception that is related to the Contractor's responsibilities herein. Contractor shall not use funds administered by the State 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. Contractor agrees to develop and implement any corrective action plans in a manner acceptable to State in order to comply with recommendations contained in any audit report. Such corrective action plans shall include time-specific objectives to allow for measurement of progress and are subject to verification by the State within one year from the date of the plan.

If differences cannot be resolved between the State and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit C, Contractor may request an appeal in accordance with the appeal process described in Document 1J(a), "NNA Audit Appeal Process," incorporated by this reference. When a financial audit is conducted directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the Subcontractor's request, request an appeal to the State in accordance with Document 1J(a). Contractor shall include a provision in its subcontracts regarding the process by which its Subcontractors may file an audit appeal via the Contractor.

**F. Revenue Collection**

Contractor shall conform to revenue collection requirements in Division 10.5 of the HSC, Sections 11841.

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**G. County Match Requirements**

Contractor shall comply with the following requirements pursuant to HSC, Sections 11840 and 11840.1.

**1. Counties with populations over 100,000:**

(a) Non-DMC SGF allocations shall be funded on the basis of 90 percent SGF and 10 percent county funds, except local hospital inpatient costs to the extent there are allocations made for local hospital inpatient costs, which shall be funded on a basis of 85 percent SGF and 15 percent county funds; and

(b) State Hospital programs shall be funded on the basis of 85 percent SGF and 15 percent County funds.

**2. Perinatal Services Network counties with populations over 100,000:**

Perinatal Services Network programs shall be funded on the basis of 90 percent Perinatal State General Fund (PSGF) and 10 percent county funds. The 10 percent county funds match to PSGF funds must be used for perinatal-related activities. The 10 percent county match requirement does not apply to the Women and Children's Residential Treatment Services funds.

**3. Counties with populations under 100,000:**

Non-DMC SGF, non-DMC PSGF, and Women and Children's Residential Treatment SGF allocations do not require a county fund match, with the exception of State Hospital programs, which shall be funded on the basis of 90 percent SGF and 10 percent county funds to the extent that allocations of SGF are made available for such programs.

**H. Cost Efficiencies**

1. It is intended that the cost to the Contractor in maintaining the dedicated capacity and units of service shall be met by the NNA allocated to the Contractor and other Contractor or Subcontractor revenues. Amounts awarded pursuant to Exhibit C 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.

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2. Pursuant to HSC, Sections 11758.12 (e) and (h), unexpended discretionary SGF provided through this Contract shall be treated as follows:
  - (a) Contractor shall include any non-DMC SGF, non-DMC PSGF, and Women and Children's Residential Treatment SGF funds redirected from the current fiscal year to the next fiscal year plus any accrued interest, (see Article III, Section C) on the identified lines of the budget summary for the next fiscal year contract.
  - (b) Unspent non-DMC SGF, non-DMC PSGF, and Women and Children's Residential Treatment SGF funds may be retained by the Contractor, less:
    - i. Amounts reimbursable to the CDCR pursuant to Document 1D(a);
    - ii. Amounts deemed necessary by the Contractor to fund allowable DMC costs that exceed DMC maximum rates.
  - (c) Retained non-DMC SGF, non-DMC PSGF, and Women and Children's Residential Treatment SGF funds shall only be spent on identified drug and alcohol service priorities in accordance with this Contract and shall be included on the identified lines of the budget summary for the subsequent fiscal year.

**I. Expenditure of SAPT Block Grant Funds**

1. SAPT Block Grant funds are allocated based upon the Federal Grant award period. These funds must be expended within the availability period of the grant award. Any SAPT Block Grant funds that have not been expended by a Contractor at the end of the expenditure period identified below shall be returned to the State for subsequent return to the Federal government.
  - (a) For State Fiscal Year (SFY) 2007-08, the expenditure period of the Federal Fiscal Year (FFY) 2008 award is October 1, 2007, through June 30, 2009.
  - (b) For SFY 2008-09, the expenditure period of the FFY 2009 award is October 1, 2008, through June 30, 2010.
  - (c) For SFY 2009-10, the expenditure period of FFY 2010 award is October 1, 2009, through June 30, 2011.

**ARTICLE IV. PERFORMANCE PROVISIONS**

**A. Monitoring**

1. Contractor's performance under Exhibit C shall be monitored by the State during the term of this Contract. Monitoring criteria shall include, but not be limited to:
  - (a) Whether the quantity of work or services being performed conform to Exhibit A1;
  - (b) Whether the Contractor has established and is monitoring appropriate quality standards;
  - (c) Whether the Contractor is abiding by all the terms and requirements of this Contract; and
  - (d) Whether the Contractor is abiding by the terms of the Perinatal Services Network Guidelines (Document 1G), until such time new Perinatal Services Network Guidelines are established and adopted.
2. Failure to comply with the above provisions shall constitute grounds for the State to suspend or recover payments, subject to the Contractor's right of appeal, or may result in termination of the Contract or both.

**B. Performance Requirements**

1. Contractor shall provide the NNA dedicated capacity by service modality and capacity, negotiated by the Contractor and the State, as set forth in Exhibit A1.
2. Contractor shall provide services to all eligible persons in accordance with federal and state statutes and regulations. Contractor 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/or ethnicity barriers;
  - (d) Language differences;
  - (e) Lack of service advocates; and

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- (f) Failure to survey or otherwise identify the barriers to service accessibility.
- 3. Contractor 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 Exhibit C Documents" which is attached to Exhibit C.
- 4. Amounts awarded pursuant to Exhibit C shall be used exclusively for providing alcohol and/or drug program services consistent with the purpose of the funding.

**ARTICLE V. REPORTING REQUIREMENTS**

**A. Financial Reports**

1. Contractor shall submit the County Prevention and Treatment Programs Fiscal Summary and Provider Fiscal Detail Forms, which are part of Exhibit A1, in accordance with the State's drug and alcohol fiscal reporting system requirements contained in Division 10.5 of HSC. Contractor agrees to submit the Exhibit A1 documents with the original contract and with each contract amendment.
2. Contractor shall submit timely the Quarterly Federal Financial Management reports and end-of-year cost data in the form of year-end cost settlement reports, including Document 2P, "County Certification Cost Report Year-End Claim for Reimbursement" with the original signature of the Contractor's authorized designee in accordance with Document 1F, "Requirements for Data by Date."

**B. Additional Reports**

1. In accordance with HSC, Section 11758.12(d), Contractor shall submit, and shall require its Subcontractors to submit, information required by the State. The information shall include, but is not limited to, utilization reports, compliance reports, financial reports, treatment and prevention services reports, demographic characteristics of service recipients, and data as required pursuant to the following:

Document 1K: Drug and Alcohol Treatment Access Report (DATAR) in an electronic or hard copy format as provided and/or approved by the State, which complies with ADP requirements for data content, data quality, reporting frequency, reporting deadlines, and reporting method. Upon notice by ADP, the format for submission may be limited to electronic format only.

Document 1T: CalOMS Prevention User Manual – Submit CalOMS prevention data in the format prescribed in the CalOMS Prevention User Manual. The manual is updated quarterly and the most current version is available via the CalOMS Prevention website at [www.kitsco.com/casupport/WebHelp/CalOMS\\_Manual.htm](http://www.kitsco.com/casupport/WebHelp/CalOMS_Manual.htm).

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Document 3J: CalOMS Treatment – Submit CalOMS treatment admission, discharge, annual update, or “provider no activity report” record in an electronic format provided and/or approved by the State, and on a schedule as determined by the State which complies with ADP requirements for data content, data quality, reporting frequency, reporting deadlines, and report method.

2. Contractor agrees that it shall submit all data requested pursuant to Article V in a manner identified, or on forms provided, by the State by the applicable due dates or the dates in Document 1F, “Requirements for Data by Date.”

3. Charitable Choice

Contractor shall submit annually the total number of referrals necessitated by religious objection to other alternative substance abuse providers. This information must be submitted to ADP in a format prescribed by ADP and at time required by ADP. (Reference is ADP Bulletin 04-5).

**C. Subcontractor Documentation**

Contractor shall require its Subcontractors that are not licensed or certified by the State to submit organizational documents to the State within thirty (30) days of its execution of an initial subcontract, within ninety (90) days of the renewal or continuation of an existing subcontract or when there has been a change in Subcontractor name or ownership. Organizational documents shall include the Subcontractor’s Articles of Incorporation or Partnership Agreements (as applicable), and business licenses, fictitious name permits, and such other information and documentation as may be requested by the State.

**ARTICLE VI. GENERAL PROVISIONS**

**A. Records**

Contractor shall maintain sufficient books, records, documents, and other evidence necessary for the State to audit contract performance and contract compliance. Contractor shall make these records available to the State, 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 the reasonableness, allowableness, and allocation of costs incurred by Contractor. All records must be capable of verification by qualified auditors.

1. Contractor shall include in any contract with an audit firm a clause to permit access by the State to the working papers of the external independent auditor, and require that copies of the working papers shall be made for the State at its request.
2. Contractor shall keep adequate and sufficient financial records and statistical data to support the year-end documents filed with the State. All records must be capable of verification by qualified auditors.
3. Accounting records and supporting documents shall be retained for a three-year period from the date the year-end cost settlement report was approved by the State for interim settlement. When an audit has been started before the expiration of the three-year period, the records shall be retained until completion of the audit and final resolution of all issues that arise in the audit. Final settlement shall be made at the end of the audit and appeal process. If an audit has not begun within three years, the interim settlement shall be considered as the final settlement.
4. Financial records shall be kept so that they clearly reflect the source of funding 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. Contractor's subcontracts shall require that all Subcontractors comply with the requirements of Article III, Section A.

6. Should a Subcontractor discontinue its contractual agreement with the Contractor, or cease to conduct business in its entirety, Contractor shall be responsible for retaining the Subcontractor's fiscal and program records for the required retention period. The SAM contains statutory requirements governing the retention, storage, and disposal of records pertaining to state funds. Contractor shall follow SAM requirements.

If the Contractor cannot physically maintain the fiscal and program records of the Subcontractor, then arrangements shall be made with the State to take possession and maintain all records.

7. In the expenditure of funds hereunder, and as required by 45 CFR Part 96, Contractor shall comply with the requirements of SAM and the laws and procedures applicable to the obligation and expenditure of federal and state funds.
8. In the event this Contract is terminated, Contractor shall deliver all of its fiscal and program records pertaining to the performance of this Contract to the State, which will retain the records for the required retention period.

**B. Dispute Resolution Process**

1. In the event of a dispute under this Exhibit C, other than an audit dispute, Contractor shall provide written notice of the particulars of the dispute to the State before exercising any other available remedy. Written notice shall include the contract number. The Director (or designee) of the State and the County Drug or Alcohol Program Administrator (or designee) shall meet to discuss the means by which they can effect an equitable resolution to the dispute. Contractor shall receive a written response from the State within sixty (60) days of the notice of dispute. The written response shall reflect the issues discussed at the meeting and state how the dispute will be resolved.
2. In the event of a dispute over financial audit findings between the State and the Contractor, Contractor may appeal the audit in accordance with the "NNA Audit Appeal Process" (Document 1J(a)). When a financial audit is conducted directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the Subcontractor's request, request an appeal to the State in accordance with Document 1J(a). Contractor shall include a provision in its subcontracts regarding the process by which a Subcontractor may file an audit appeal via the Contractor.
3. To ensure that necessary corrective actions are taken, financial audit findings are either uncontested or upheld after appeal may be used by the State during prospective contract negotiations.

**C. Negotiated Net Amount Limitations**

Pursuant to HSC Section 11818, Contractor shall reimburse its Subcontractors that receive a combination of Medi-Cal funding and other federal or state funding for the same service element and location based on the Subcontractor's actual costs in accordance with Medicaid reimbursement requirements as specified in Title XIX of the Social Security Act; Title 22, and the State's Medicaid Plan. Payments at negotiated rates shall be settled to actual cost at year-end.

**LIST OF EXHIBIT C DOCUMENTS INCORPORATED BY REFERENCE  
FISCAL YEAR 2007-08**

The following documents are hereby incorporated by reference into Exhibit C and, as applicable, into Exhibit D regardless of whether or not they are actually attached to the Contract.

- Document 1A: Title 45, Code of Federal Regulations 96, Subparts C and L, Substance Abuse Prevention and Treatment Block Grant Requirements  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_04/45cfr96\\_04.html](http://www.access.gpo.gov/nara/cfr/waisidx_04/45cfr96_04.html)
- Document 1B: Title 42, Code of Federal Regulations, Charitable Choice Regulations  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_04/42cfr54\\_04.html](http://www.access.gpo.gov/nara/cfr/waisidx_04/42cfr54_04.html)
- Document 1C: Driving-Under-the-Influence Program Requirements
- Document 1D(a): Services to California Department of Corrections and Rehabilitation – Parolee Services Network
- Document 1D(b): SAPT Female Offender Treatment Project (FOTP)
- Document 1F: Requirements for Data by Date
- Document 1G: Perinatal Services Network Guidelines 2004 (for Non-DMC Perinatal Programs)  
[http://www.adp.ca.gov/perinatal/pdf/guidelines\\_04.pdf](http://www.adp.ca.gov/perinatal/pdf/guidelines_04.pdf)
- Document 1H(a): Service Code Descriptions
- Document 1H(b): Program Code Listing
- Document 1J(a): NNA Audit Appeals Process
- Document 1K: Drug and Alcohol Treatment Access Report (DATAR)  
<http://www.adp.ca.gov/AOD/manuals/DATARmanual.pdf>
- Document 1P: Alcohol and/or Other Drug Program Certification Standards (March 15, 2004)
- Document 1T: CalOMS Prevention User Manual  
[http://www.kitsco.com/casupport/WebHelp/CalOMS\\_Manual.htm](http://www.kitsco.com/casupport/WebHelp/CalOMS_Manual.htm)

**Exhibit C – Preliminary - County Contract (FY 2007-08 thru FY 2009-10 Multi-Year)**

- Document 1V: Youth Treatment Guidelines  
[http://www.adp.ca.gov/youth/pdf/Youth Treatment Guidelines.pdf](http://www.adp.ca.gov/youth/pdf/Youth_Treatment_Guidelines.pdf)
- Document 1W: Certification Regarding Lobbying
- Document 1X: Disclosure of Lobbying Activities – Standard Form LLL
- Document 2F: Standards for Drug Treatment Programs (October 21, 1981)
- Document 2P: County Certification - Cost Report Year-End Claim For Reimbursement
- Document 3G: California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 4 – Narcotic Treatment Programs  
<http://www.calregs.com>
- Document 3H: California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 8 – Certification of Alcohol and Other Drug Counselors  
<http://www.calregs.com>
- Document 3J: CalOMS Treatment Data Collection Guide  
<http://www.adp.ca.gov/CalOMS/trainingtools.shtml>
- Document 3K: Business Associate Agreement: County is the Business Associate of the Department of Alcohol and Drug Programs
- Document 3L: Business Associate Agreement: Department of Alcohol and Drug Programs is the Business Associate of the County

**DRUG MEDI-CAL ALCOHOL AND OTHER DRUG TREATMENT SERVICES**

**ARTICLE I. FORMATION AND PURPOSE**

- A. Exhibit D of this Contract is entered into by and between the State and the Contractor for the purpose of identifying and providing for covered Drug Medi-Cal (DMC) services for alcohol and other drug (AOD) treatment in the Contractor's service area pursuant to Sections 11848, 11848.5(a) and (b), and 11758.40 through 11758.47 of the Health and Safety Code (hereinafter referred to as HSC), Title 22 of the California Code of Regulations (hereinafter referred to as Title 22), Sections 51341.1, 51490.1, and 51516.1 and consistent with the Interagency Agreement between the Department of Health Services (DHS) and the State.
- B. It is further agreed that Exhibit D of this Contract is controlled by applicable provisions of: (a) the Welfare and Institutions Code (hereinafter referred to as W&IC), Chapter 7, Sections 14000, et seq., in particular, but not limited to, Sections 14021, 14021.5, 14021.6, 14043, et seq. and 14132.90; (b) the HSC, in particular but not limited to, Sections 11758.40 through 11758.47; (c) Title 22, including but not limited to Sections 51490.1, 51341.1 and 51516.1; and (d) Division 4 of Title 9 of the California Code of Regulations (hereinafter referred to as Title 9).
- C. It is understood and agreed that nothing contained in Exhibit D shall be construed to impair the single state agency authority of DHS.
- D. The objective of Exhibit D is to make AOD treatment services available to Medi-Cal beneficiaries through utilization of federal funds available pursuant to Title XIX of the Social Security Act for reimbursable covered services rendered by certified DMC providers.

## ARTICLE II. DEFINITIONS

The words and terms of this Contract are intended to have their usual meaning unless a specific or more limited meaning is associated with their usage pursuant to the HSC, Title 9, and/or Title 22. Definitions of covered treatment modalities and services are found in Title 22 (Document 2C) and are incorporated by this reference. The following definitions shall apply to Exhibit D of this Contract:

- A. **"Administrative Costs"** means the Contractor's direct costs to administer the program or an activity to provide service to the DMC program. Administrative costs do not include the cost of treatment or other direct services to the beneficiary. Administrative costs may include, but are not limited to, the cost of training, program review, and activities related to billing.
- B. **"Beneficiary"** means a person who: (a) has been determined eligible for Medi-Cal; (b) is not institutionalized; (c) has a substance-related disorder per the "Diagnostic and Statistical Manual of Mental Disorders III Revised (DSM)," and/or DSM IV criteria; and (d) meets the admission criteria to receive DMC covered services.
- C. **"Contractor"** means the county identified in the Standard Agreement or the department authorized by that county's Board of Supervisors to administer alcohol and drug programs.
- D. **"Covered Services"** means those DMC services authorized by Title XIX of the Social Security Act; Title 22 Section 51341.1; HSC Section 11758.46; and California's Medicaid State Plan. Covered services are Naltrexone treatment, outpatient drug-free treatment, narcotic replacement therapy, day care rehabilitative (for pregnant, postpartum, and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) beneficiaries only), and perinatal residential AOD treatment (excluding room and board).
- E. **"Drug Medi-Cal Program"** means the state system wherein beneficiaries receive covered services from DMC-certified AOD treatment providers who are reimbursed for those services with a combination State General Fund (SGF) and federal Medicaid funds.
- F. **"Early and Periodic Screening, Diagnosis, and Treatment Program"** means the federally mandated Medicaid benefit that entitles full-scope Medi-Cal-covered beneficiaries under 21 years of age to receive any Medicaid service necessary to correct or ameliorate a defect, mental illness, or other condition, such as a substance-related disorder, that is discovered during a health screening.

**"Early and Periodic Screening, Diagnosis, and Treatment Program (Supplemental Service)"** means the supplemental individual outpatient drug-free (ODF) counseling services provided to beneficiaries eligible for the EPSDT program. Supplemental individual ODF counseling consists of any necessary individual AOD counseling not otherwise included in the ODF counseling modality under the DMC program.

**Exhibit D – Preliminary - County Contract (FY 2007-08 thru FY 2009-10 Multi-Year)**

- G. **"Federal Financial Participation (FFP)"** means the share of federal Medicaid funds for reimbursement of DMC services.
- H. **"Final Settlement"** means permanent settlement of the Contractor's actual allowable costs or expenditures as determined at the time of audit, which shall be completed within three years of the date the year-end cost settlement report was accepted for interim settlement by the State. If the audit has not begun within three years, the interim settlement shall be considered as the final settlement.
- I. **"Interim Settlement"** means temporary settlement of actual allowable costs or expenditures reflected in the Contractor's year-end cost settlement report.
- J. **"Medical Necessity"** means those AOD treatment services that are reasonable and necessary to protect life, prevent significant illness or disability, or alleviate severe pain through the diagnosis and treatment of a disease, illness, or injury or, in the case of EPSDT, services that meet the criteria specified in Title 22, Section 51340.1.
- K. **"Minor Consent DMC Services"** are those covered services that, pursuant to Family Code Section 6929, may be provided to persons 12-20 years old without parental consent.
- L. **"Narcotic Treatment Program (NPT)"** means an outpatient clinic licensed by the State to provide narcotic replacement therapy using methadone directed at stabilization and rehabilitation of persons who are opiate-addicted and have an AOD diagnosis.
- M. **"Performance Report"** means an annual year-end cost settlement report based on billing activity.
- N. **"Perinatal DMC Services"** means covered services as well as mother/child habilitative and rehabilitative services; services access (i.e., provision or arrangement of transportation to and from medically necessary treatment); education to reduce harmful effects of alcohol and drugs on the mother and fetus or infant; and coordination of ancillary services (Title 22, Section 51341.1(c) 4).
- O. **"Postpartum,"** (as defined for DMC purposes) means the 60-day period beginning on the last day of pregnancy, regardless of whether other conditions of eligibility are met. Eligibility shall end on the last day of the calendar month in which the 60<sup>th</sup> day occurs.
- P. **"Postservice Postpayment (PSPP) Utilization Review"** means the review for program compliance and medical necessity conducted by the State after service was rendered and the claim paid. State may recover prior payments if such review determines that the services did not comply with the applicable statutes, regulations, or standards.

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- Q. **"Projected Units of Service"** means the number of reimbursable DMC units of service, based on historical data and current capacity, Contractor expects to provide on an annual basis.
- R. **"Protected Population"** means: (1) EPSDT-eligible Medi-Cal beneficiaries under age 21; and (2) Medi-Cal-eligible pregnant and postpartum women.
- S. **"Provider of DMC Services"** means any person or entity that provides direct AOD treatment services and has been certified by State as meeting the standards for participation in the DMC program set forth in the "DMC Certification Standards for Substance Abuse Clinics", Document 2E and "Standards for Drug Treatment Programs (October 21, 1981)", Document 2F.
- T. **"Satellite site"** has the same meaning as defined in the Drug Medi-Cal Certification Standards for Substance Abuse Clinics.
- U. **"Service Area"** means the geographical area under Contractor's jurisdiction.
- V. **"Statewide Maximum Allowances (SMA)"** means the maximum amount authorized to be paid by DMC for each covered unit of service for outpatient drug free, day care rehabilitative, perinatal residential, and Naltrexone treatment services. Rates are subject to change annually. The proposed SMA for FY 2007-08 is listed in the "Unit of Service" table in Article III Section Z.
- W. **"Subcontract"** means an agreement between the Contractor and its Subcontractors. A Subcontractor shall not delegate its obligation to provide covered services or otherwise subcontract for the provision of direct patient/client services.
- X. **"Subcontractor"** means an individual or entity that is DMC certified and has entered into an agreement with the Contractor to be a direct provider of covered services. It may also mean a vendor who has entered into a procurement agreement with the Contractor to provide any of the administrative functions related to fulfilling the Contractor's obligations under the terms of this Exhibit D.

Y. **"Uniform Statewide Monthly Reimbursement (USMR) Rate"** means the rate for NTP services based on a unit of service that is a calendar month of treatment service provided pursuant to Title 22, Sections 51341.1 and 51516.1 and Title 9, commencing with Section 10000 (Document 3G), or the rate for individual or group counseling. The following table shows the Fiscal Year ( FY) 2006-07 USMR. The FY 2007-08 USMR rates will be identified upon approval of the FY 2007-08 Governor's Budget Act.

Service	Type of UOS	Non-perinatal UOS (*)	Perinatal UOS (*)	Rate
NTP-Methadone	Daily	\$9.64 0.88 (*)	\$11.84 1.08 (*)	Maximum
	Monthly	\$293.22	\$360.13	
NTP-Individual Counseling (**)	One 10-minute increment	\$13.03 1.19 (*)	\$21.22 1.94 (*)	Maximum
NTP Group Counseling (**)	One 10-minute increment	\$3.64 0.33 (*)	\$6.29 0.58 (*)	Maximum

(\*) Administrative Costs incorporated within the rate.

(\*\*) The NTP Subcontractors may be reimbursed for up to 200 minutes (20 10-minute increments) of individual and/or group counseling per calendar month per beneficiary.

Reimbursement for covered NTP services shall be limited to the lower of the NTP's usual and customary charge to the general public for the same or similar services or the USMR. However, reimbursement paid by a county to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual patient/client is not liable to pay, does not constitute a usual or customary charge to the general public. (HSC Section 11758.42(h)(2)(A)).

Z. **"Unit of Service"** means a face-to-face contact on a calendar day for outpatient drug free, day care rehabilitative, perinatal residential, and Naltrexone treatment services. Only one face-to-face service contact per day is covered by DMC except in the case of emergencies when an additional face-to-face contact may be covered for intake crisis intervention or collateral service. To count as a unit of service, the second contact shall not duplicate the services provided on the first contact, and each contact shall be clearly documented in the beneficiary's record. Units of service and SMA for FY 2006-07 are identified in the chart below. The FY 2007-07 SMA rates will be identified upon approval of the FY 2007-08 Governor's Budget Act.

Service	Type of Unit of Service (UOS)	Non-perinatal UOS	Perinatal UOS	Rate
Day Care Rehabilitative	Face-to-Face Visit	\$67.98 for EPSDT only	\$77.27	Statewide Maximum Allowance
Naltrexone Treatment	Face-to-Face Visit	\$21.19	N/A	Statewide Maximum Allowance
Outpatient Drug-Free Treatment	Face-to-Face Individual Group	\$64.16 \$30.85	\$106.08 \$48.16	Statewide Maximum Allowance
Perinatal Residential	Residential Day	N/A	\$77.46	Statewide Maximum Allowance

**ARTICLE III. PROVISION OF SERVICE**

**A. Covered Services**

1. Contractor shall establish assessment and referral procedures and shall arrange, provide, or subcontract for covered services in the Contractor's service area. Covered services include:

- (a) Outpatient drug-free treatment;
- (b) Narcotic replacement therapy;
- (c) Naltrexone treatment;
- (d) Day care rehabilitative (pregnant or postpartum, and EPSDT only); and
- (e) Perinatal residential AOD treatment services (excluding room and board).

2. In the event of a conflict between the definition of services contained in this Exhibit D and the definition of services in Sections 51341.1, 51490.1, and 51516.1 of Title 22, the provisions of Title 22 shall govern.

**B. Federal and State Mandates**

- 1. Contractor, to the extent applicable, shall comply with "Sobky v. Smoley" (Document 2A), 855 F. Supp. 1123 (E.D. Cal 1994), incorporated by this reference.
- 2. Contractor shall comply with any additional legal requirements including, but not limited to, any court-ordered requirements and statutory or regulatory amendments to existing law (including changes in covered services) that are imposed or are effective subsequent to the execution of this Contract. Contractor agrees that this Contract shall be amended to reflect such requirements, amendments, or changes.
- 3. Contractor shall comply with federal and state mandates to provide alcohol and other drug treatment services deemed medically necessary for Medi-Cal eligible: (1) pregnant and postpartum women, and (2) youth under age 21 who are eligible under the EPSDT Program.
- 4. Contractor shall comply with the California Family Code Section 6929 in the provision of Minor Consent Medi-Cal Services.

5. Contractor shall maintain continuous availability and accessibility of covered services and facilities, service sites, and personnel to provide the covered services in its service area. Such services shall not be limited due to budgetary constraints.

(a) When a request for covered services is made by a beneficiary, Contractor shall require services to be initiated with reasonable promptness. Contractor shall have a documented system for monitoring and evaluating accessibility of care, including a system for addressing problems that develop regarding waiting times and appointments.

(b) Contractor shall submit, and shall require its Subcontractors to submit, information required by the State. The information shall include, but is not limited to, data as required pursuant to the following:

Document 1K: Drug and Alcohol Treatment Access Report (DATAR) in an electronic or hard copy format as provided and/or approved by the State, which complies with the Department of Alcohol and Drug Programs (ADP) requirements for data content, data quality, reporting frequency, reporting deadlines, and reporting method. Upon notice by ADP, the format for submission may be limited to electronic format only.

Document 3J: California Outcomes Measurement System (CalOMS) Treatment – Submit CalOMS treatment admission, discharge, annual update, or “provider no activity report” record in an electronic format provided and/or approved by the State, and on a schedule as determined by the State which complies with ADP requirements for data content, data quality, reporting frequency, reporting deadlines, and report method.

Contractor agrees that it shall submit all data requested in (a) and (b) in a manner identified, or on forms provided, by the State by the applicable due dates or the dates in Document 1F, “Requirements for Data by Date.”

(c) Contractor shall require that treatment programs are accessible to people with disabilities in accordance with Title 45, Code of Federal Regulations (hereinafter referred to as CFR), Part 84 and the Americans with Disabilities Act.

6. Covered services, whether provided directly by the Contractor or through subcontractors with DMC certified programs, shall be provided to beneficiaries without regard to the beneficiaries' county of residence.

**Exhibit D – Preliminary - County Contract (FY 2007-08 thru FY 2009-10 Multi-Year)**

7. In the event Contractor fails to comply with subdivisions 1 through 6 of this Section, the State may terminate this Contract for cause.
8. Contractor shall notify the State in writing prior to reducing the provision of covered services. In addition, any proposal to change the location where covered services are provided, or to reduce their availability, shall be submitted in writing to the State sixty (60) days prior to the proposed effective date. Contractor shall not implement the proposed changes if the State denies the Contractor's proposal.
9. Contractor shall amend its subcontracts for covered services in order to provide sufficient DMC SGF to match allowable federal Medicaid reimbursements for any increase in provider DMC services to beneficiaries.
10. Contractor shall require that providers of perinatal DMC services are properly certified to provide these services and comply with the requirements contained in Title 22, Section 51341.1, Services for Pregnant and Postpartum Women.
11. In the event that the Contractor fails to provide covered services in accordance with the provisions of this Contract, at the discretion of the State, Contractor may be required to forfeit its DMC SGF allocation and surrender its authority to function as the administrator of covered services in its service area.
12. The failure of the Contractor or its Subcontractors to comply with Section B of this Article will be deemed a breach of this Contract sufficient to terminate this Contract for cause. In the event the Contract is terminated, the provision of Exhibit B, Paragraph G, Items 2 and 3 shall apply.

**C. Provider Participation, Certification, Recertification, and Appeals**

1. State will review and certify eligible providers to participate in the DMC program. Certification agreements will not be time limited. State will conduct recertification on-site visits at clinics for circumstances identified in the "Drug Medi-Cal Certification Standards for Substance Abuse Clinics", (Document 2E). Document 2E contains the appeal process in the event the State disapproves a provider's request for certification or recertification and shall be included in the Contractor's subcontracts.
2. Contractor shall include a provision in its subcontracts informing the provider that it may seek assistance from the State in the event of a dispute over the terms and conditions of subcontracts.

**Exhibit D – Preliminary - County Contract (FY 2007-08 thru FY 2009-10 Multi-Year)**

3. Contractor shall require all the providers of services to be licensed, registered, DMC certified and/or approved in accordance with applicable laws and regulations. Contractor's subcontracts shall require that providers comply with the following regulations and guidelines:

- (a) Title 21, CFR Part 1300, et seq., Title 42, CFR, Part 8;
- (b) Drug Medi-Cal Certification Standards for Substance Abuse Clinics (Document 2E);
- (c) Title 22, Sections 51341.1, 51490.1, and 51516.1, (Document 2C);
- (d) Standards for Drug Treatment Programs (October 21, 1981) (Document 2F); and
- (e) Title 9, Sections 10000, et seq.

In the event of conflicts, the provisions of Title 22 shall control if they are more stringent.

Contractor acknowledges that if a provider is under investigation by DHS or any state, local or federal law enforcement agency for fraud or abuse, the State may temporarily suspend the provider from the DMC program, pursuant to W&IC Section 14043.36(a).

Contractor and Subcontractors shall participate in DMC orientation training sessions as prescribed by the Department.

4. If, at any time, a Subcontractor's license, registration, certification, or approval to operate an AOD treatment program or provide a covered service is revoked, suspended, modified, or not renewed, the State may amend this Contract.

A provider's certification to participate in the DMC program shall automatically terminate in the event that the provider or its owners, officers or directors are convicted of Medi-Cal fraud, abuse or malfeasance. For purposes of this section, a conviction shall include a plea of guilty or nolo contendere.

**ARTICLE IV. FISCAL PROVISIONS**

**A. Reimbursements**

To the extent that the Contractor provides the covered services in a satisfactory manner and in accordance with the terms and conditions of this Contract, the State agrees to pay the Contractor DMC SGF and federal Medicaid funds according to Article V. Subject to the availability of such funds, Contractor shall receive federal Medicaid funds for allowable expenditures as established by the federal government and approved by DHS, for the cost of services rendered to beneficiaries.

1. Reimbursement for covered services shall be made in accordance with applicable provisions of Title 22 and all other currently applicable policies and procedures.
2. It is understood and agreed that failure by the Contractor or its Subcontractors to comply with applicable federal and state requirements in rendering covered services shall be sufficient cause for the State to deny payments to and/or recover payments from the Contractor. If the State, DHS, or the Department of Health and Human Services (DHHS) disallows or denies payments for any claim, Contractor shall repay to the State the federal Medicaid funds and SGF it received for all claims so disallowed or denied.

Before such denial, recoupment, or disallowances are made, State shall provide the Contractor with written notice of its proposed action. Such notice shall include the reason for the proposed action and shall allow the Contractor sixty (60) days to submit additional information before the proposed action is taken. This requirement does not apply to the DMC PSPP Utilization Reviews.

3. This Contract encumbers a specific amount of DMC SGF to be used in accordance with the Contractor's allocation as described in the State's final allocation notice. This amount is intended to cover all anticipated need for DMC SGF covered services. If the need for allowable DMC services is less than anticipated in any particular fiscal year, the State may reduce the contract amount of DMC SGF through a contract amendment, the cost settlement process, or other available processes. If, during the term of this Contract, Contractor's cost for allowable DMC services is anticipated to exceed the maximum amount allowed for services described in Exhibit D, and the Contractor anticipates utilizing all available DMC SGF allocated for the State match, Contractor shall submit a written request to the State for additional DMC SGF funding.

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4. Only DMC SGF may be used to match FFP funding. Contractor shall only use DMC SGF to fund applicable Minor Consent Services and services with AID Code 65.

**B. Return of Unexpended Funds**

Contractor assumes the total cost of providing covered services on the basis of the payments delineated in this Exhibit D. Any federal Medicaid funds and DMC SGF paid to the Contractor, but not expended for DMC services shall be returned to the State.

**C. Availability of Funds**

It is understood that, for the mutual benefit of both parties, this Contract 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 Contract was not executed until after that determination. If so, State may amend the amount of funding provided for in this Contract based on the actual congressional appropriation.

**D. Additional Restrictions**

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

**E. Amendment or Cancellation Due to Insufficient Appropriation**

This Contract is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the purpose of the DMC program. It is mutually agreed that if the Congress does not appropriate sufficient funds for this program, State has the option to void this contract or to amend the Contract to reflect any reduction of funds.

**F. Exemptions**

Exemptions to the provisions of Section E, above, may be granted by the California Department of Finance provided that the Director of DHS certifies in writing that federal funds are available for the term of the contract.

**G. Payment for Covered Services**

Any payment for covered services rendered pursuant to this Exhibit D shall only be made pursuant to applicable provisions of Title XIX of the Social Security Act; the W&IC; the HSC; California's Medicaid State Plan; and Sections 51341.1, 51490.1, 51516.1, and 51532 of Title 22.

1. Contractor shall be reimbursed by the State on the basis of its actual net reimbursable cost, including any allowable county administrative costs, not to exceed the unit of service maximum rate.

Pursuant to HSC Section 11758.42 (h), reimbursement to NTP providers shall be limited to the lower of either the uniform statewide monthly reimbursement rate, or the provider's usual and customary charge to the general public for the same or similar service. However, reimbursement paid by a Contractor to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual client is not liable to pay, does not constitute a usual or customary charge to the general public. (HSC Section 11758.42(h)(2)(A).)

2. Pursuant to HSC Section 11818(b)(2), Contractor shall reimburse providers that receive a combination of Medi-Cal funding and other federal or state funding for the same service element and location based on the provider's actual costs in accordance with Medi-Cal reimbursement requirements as specified in Title XIX of the Social Security Act; Title 22, and the state's Medicaid Plan. Payments at negotiated rates shall be settled to actual cost at year-end.

**H. Allowable Costs**

Allowable costs, as used in Section 51516.1 of Title 22 shall be determined in accordance with Title 42, CFR Parts 405 and 413, and Centers for Medicare and Medicaid Services (CMS), "Provider Reimbursement Manual (Publication Number 15)." In accordance with W&IC Sections 14132.44 and 14132.47, funds allocated to the Contractor for DMC services, including funding for alcohol and other drug services for pregnant and postpartum women pursuant to Title 22, Section 51341.1(c), may not be used as match for targeted case management services or for Medi-Cal administrative activities.

**I. Records and Additional Audit Requirements**

1. Accurate fiscal records and supporting documentation shall be maintained by the Contractor and its Subcontractors to support all claims for reimbursement. All records must be capable of verification by auditors.

**Exhibit D – Preliminary - County Contract (FY 2007-08 thru FY 2009-10 Multi-Year)**

2. Should a Subcontractor discontinue operations, Contractor shall retain 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 retaining to state funds. Contractor shall follow SAM requirements.

If the Contractor cannot physically maintain the fiscal and program records of the Subcontractor, then arrangements shall be made with the State to take possession and maintain all records.

3. Accounting records and supporting documents shall be retained for a three-year period from the date the year-end cost settlement report was approved by the State for interim settlement. When an audit has been started before the expiration of the three-year period, the records shall be retained until completion of the audit and final resolution of all issues that arise in the audit. Final settlement shall be made at the end of the audit and appeal process. If an audit has not begun within three years, the interim settlement shall be considered as the final settlement.

4. In addition to the audit requirements set forth in Exhibit B, State may also conduct financial audits of DMC programs, exclusive of NTP services provided on or after July 1, 1997, to accomplish any of, but not limited to, the following audit objectives:

- (a) To review reported costs for validity, appropriate allocation methodology, and compliance with Medicaid laws and regulations;
- (b) To ensure that only the cost of allowable DMC activities are included in reported costs;
- (c) To determine the provider's usual and customary charge to the general public in accordance with CMS (Provider Reimbursement Manual) for comparison to the DMC cost per unit;
- (d) To review documentation of units of service and determine the final number of approved units of service;
- (e) To determine the amount of clients' third-party revenue and Medi-Cal share of cost to offset allowable DMC reimbursement; and
- (f) To compute final settlement based on the lower of actual allowable cost, the usual and customary charge, or the maximum allowance, in accordance with Title 22, Section 51516.1.

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5. In addition to the audit requirements set forth in Exhibit B, State may conduct financial audits of NTP programs. For NTP services on or after July 1, 1997, the audits will address items 4(c) through 4(e) above, except that the comparison of the provider's usual and customary charge in 4(c) will be to the DMC USMR rate in lieu of DMC cost per unit. In addition, these audits will include, but not be limited to:
  - (a) For those NTP providers required to submit a cost report pursuant to HSC Section 11758.46(j)(2), a review of cost allocation methodology between NTP and other service modalities, and between DMC and other funding sources;
  - (b) A review of actual costs incurred for comparison to services claimed;
  - (c) A review of counseling claims to ensure that the appropriate group or individual counseling rate has been used and that counseling sessions have been billed appropriately;
  - (d) A review of the number of clients in group sessions to ensure that sessions include no less than four and no more than ten clients;
  - (e) Computation of final settlement based on the lower of USMR rate or the provider's usual and customary charge to the general public; and
  - (f) A review of supporting service, time, financial, and patient records to verify the validity of counseling claims.
6. Audit reports by the State and/or DHS shall reflect all findings and any recommendations, adjustments, or corrective action necessary as a result of those findings.
7. Contractor shall be responsible for any disallowances taken by the Federal Government, State, the Bureau of State Audits, or DHS as a result of any audit exception that is related to its responsibilities. Contractor shall not use funds administered by the State 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.
8. Contractor agrees to promptly develop and implement any corrective action plans in a manner acceptable to the State in order to comply with recommendations contained in any audit report. Such corrective action plans shall include time-specific objectives to allow for measurement of progress and are subject to verification by the State within one year from the date of the plan.

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9. Contractor, in coordination with the State, must provide follow-up on all significant findings in the audit report, including findings relating to a Subcontractor, and submit the results to the State.
10. If differences cannot be resolved between the State and/or DHS and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit D, Contractor may request an appeal in accordance with the appeal process described in the "DMC Audit Appeal Process," Document 1J(b), incorporated by this reference. When a financial audit is conducted directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the Subcontractor's request, request an appeal to the State in accordance with Document 1J(b). Contractor shall include a provision in its subcontracts regarding the process by which a Subcontractor may file an audit appeal via the Contractor.
11. Providers of DMC services shall, upon request, make available to the State its fiscal and other records to assure that such provider has adequate recordkeeping capability and to assure that reimbursement for covered DMC services are made in accordance with Title 22, CCR, Section 51516.1. These records include, but are not limited to, matters pertaining to:
  - (a) Provider ownership, organization, and operation;
  - (b) Fiscal, medical, and other recordkeeping systems;
  - (c) Federal income tax status;
  - (d) Asset acquisition, lease, sale, or other action;
  - (e) Franchise or management arrangements;
  - (f) Patient service charge schedules;
  - (g) Costs of operation;
  - (h) Cost allocation methodology;
  - (i) Amounts of income received by source and purpose; and
  - (j) Flow of funds and working capital.
12. In the event this Contract is terminated, Contractor shall deliver all of its fiscal and program records pertaining to the performance of this Contract to the State, which will retain the records for the required retention period.

**ARTICLE V. INVOICE/CLAIM AND PAYMENT PROCEDURES**

**A. Payments**

1. State shall reimburse the Contractor:
  - a. The DMC SGF amount upon approval by DHS of the monthly claims and reports submitted in accordance with Article 5 of Section B, below.
  - b. The federal Medicaid amount upon approval by DHS of the monthly claims and reports submitted in accordance with Article 5 Section B, below.
  - c. The federal Medicaid and DMC SGF:
    - i. At either the USMR rate or the provider's usual or customary charge to the general public for NTP's; or
    - ii. At a rate that is the lesser of the projected cost or the maximum rate allowance for other DMC modalities.
2. State will adjust subsequent reimbursements to the Contractor to actual allowable costs. Actual allowable costs are defined in CMS Provider Reimbursement Manual.

**B. Monthly Claims and Reports**

1. Contractors or providers that invoice the State or the County for services identified in Section 51516.1 of Title 22 shall submit claims in accordance with the DMC Provider Billing manual.
  - a. Claims shall be submitted electronically in the Health Insurance Portability and Accountability Act (HIPAA) 837 format effective January 1, 2006.
  - b. All claims shall be accompanied by a Drug Medi-Cal Monthly Summary Invoice (ADP 1592), Document 2H.
  - c. When applicable, claims shall be accompanied by Provider Report of Drug Medi-Cal Claims Adjustment (ADP 5035C), Document 2J.

Note: The following forms shall be prepared as needed and retained by the provider for review by State staff:

  - Multiple Billing Override Certification (ADP 7700), Document 2K
  - Good Cause Certification (ADP 6065), Document 2L

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2. In the absence of good cause documented on the Good Cause Certification (ADP 6065) form, claims that are not submitted within 30 days of the end of the month of service shall be denied. The existence of good cause shall be determined by the State in accordance with Title 22, CCR, Sections 51008 and 51008.5.
  3. Claims for reimbursement shall include only those services covered under Title 22, Section 51341.1(c-d) and administrative charges that are allowed under W&IC, Sections 14132.44 and 14132.47.
  4. Contractor shall utilize the Drug Medi-Cal Provider Billing Manual (for a copy, please contact your ADP Fiscal Management and Accountability Analyst) and the Companion Guide for HIPAA 837P and 835 Transactions (Document 2Y) for understanding and obtaining instructions for the DMC billing process.
- C. Year-End Cost Settlement Reports and Performance Reports
1. State will not accept year-end cost settlement reports from the Subcontractor(s) directly. Pursuant to HSC Section 11758.46 (j)(2) Contractor shall submit to the State, on November 1 of each year, the following documents by paper or electronic submission for the previous fiscal year:
    - (a) Document 2P, County Certification Year-End Claim for Reimbursement
    - (b) Document 2P(a) and 2P(b), Drug Medi-Cal Cost Report Forms for Day Care Rehabilitative for Alcohol and Drug or Perinatal
    - (c) Document 2P(c) and 2P(d), Drug Medi-Cal Cost Report Forms for Outpatient Drug Free Individual Counseling for Alcohol and Drug or Perinatal
    - (d) Document 2P(e) and 2P(f), Drug Medi-Cal Cost Report Forms for Outpatient Drug Free Group Counseling for Alcohol and Drug or Perinatal
    - (e) Document 2P(g), Drug Medi-Cal Cost Report Forms for Residential for Perinatal
    - (f) Document 2P(h) and 2P(i), Drug Medi-Cal Cost Report Forms for Narcotic Treatment Programs for Alcohol and Drug or Perinatal
  2. State may settle costs for DMC services based on the year-end cost settlement report as the final amendment to the approved single State/County contract.

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3. Commencing January 1, 2003, NTP providers billing the State for DMC services and providing services to persons subject to Penal Code Sections 1210.1 and 3063.1 only, shall submit performance reports in lieu of a cost report.
4. Reimbursement for covered services, other than NTP services, shall be limited to the lower of: (a) the provider's usual and customary charges to the general public for the same or similar services; (b) the provider's actual allowable costs; or (c) the DMC SMA for the modality.
5. Reimbursement to NTP's shall be limited to the lower of either the USMR rate, pursuant to HSC Section 11758.42(h)(1), or the provider's usual and customary charge to the general public for the same or similar service. However, reimbursement paid by a county to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual client is not liable to pay, does not constitute a usual or customary charge to the general public. (HSC Section 11758.42(h)(2)(A)).

**ARTICLE VI. POSTSERVICE POSTPAYMENT UTILIZATION REVIEW**

- A. State shall conduct Postservice Postpayment (PSP) utilization reviews in accordance with Title 22 Section 51341.1. Any claimed DMC service may be reviewed for compliance with all applicable standards, regulations and program coverage after services are rendered and the claim paid.
- B. State shall take appropriate steps to recover payments made if subsequent investigation uncovers evidence that the claim(s) should not have been paid or that DMC services have been improperly utilized, and/or shall take the corrective action as appropriate.
- C. State shall monitor the Subcontractor's compliance with PSP utilization review requirements in accordance with Title 22. DHS and the federal government may also review the existence and effectiveness of the State's utilization review system.
- D. Contractor shall implement and maintain compliance with the system of review described in Title 22, Section 51341.1, for the purposes of reviewing the utilization, quality, and appropriateness of covered services and ensuring that all applicable Medi-Cal requirements are met.
- E. Satellite sites must keep a record of the clients/patients being treated at that location.

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**LIST OF EXHIBIT D DOCUMENTS INCORPORATED BY REFERENCE\*  
FISCAL YEAR 2007-08**

The following documents are hereby incorporated by reference into Exhibit D of the combined County contract though they may not be physically attached to the contract:

- Document 1F: Requirements for Data by Date
- Document 1H(a): Service Code Descriptions
- Document 1H(b): Program Code Listing
- Document 1J(b): DMC Audit Appeal Process
- Document 1K: Drug and Alcohol Treatment Access Report  
<http://www.adp.ca.gov/AOD/manuals/DATARmanual.pdf>
- Document 1P: Alcohol and/or Other Drug Program Certification Standards  
(March 15, 2004)
- Document 1W: Certification Regarding Lobbying
- Document 1X: Disclosure of Lobbying Activities – Standard Form LLL
- Document 2A: Sobky v. Smoley, Judgment, Signed February 1, 1995
- Document 2C: Title 22, California Code of Regulations  
<http://ccr.oal.ca.gov>
- Document 2E: Drug Medi-Cal Certification Standards for Substance Abuse Clinics  
(Updated July 1, 2004)  
[http://www.adp.ca.gov/dmc/pdf/DMCA\\_Drug\\_Medi-Cal\\_Certification\\_Standards.pdf](http://www.adp.ca.gov/dmc/pdf/DMCA_Drug_Medi-Cal_Certification_Standards.pdf)
- Document 2F: Standards for Drug Treatment Programs (October 21, 1981)  
[http://www.adp.ca.gov/dmc/pdf/DMCA\\_Standards\\_for\\_Drug\\_Treatment\\_Programs.pdf](http://www.adp.ca.gov/dmc/pdf/DMCA_Standards_for_Drug_Treatment_Programs.pdf)
- Document 2H: Drug Medi-Cal Monthly Summary Invoice (ADP 1592)
- Document 2J: Provider Report of Drug Medi-Cal Claims Adjustments (ADP 5035C) –  
Form/Instructions
- Document 2K: Multiple Billing Override Certification (ADP 7700)
- Document 2L: Good Cause Certification (ADP 6065)

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- Document 2P: County Certification - Cost Report Year-End Claim For Reimbursement
- Document 2P(a): Drug Medi-Cal Cost Report Forms – Day Care Rehabilitative – Alcohol and Drug (forms and instructions)
- Document 2P(b): Drug Medi-Cal Cost Report Forms – Day Care Rehabilitative – Perinatal (forms and instructions)
- Document 2P(c): Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Individual Counseling – Alcohol and Drug (forms and instructions)
- Document 2P(d): Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Individual Counseling – Perinatal (forms and instructions)
- Document 2P(e): Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Group Counseling – Alcohol and Drug (forms and instructions)
- Document 2P(f): Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Group Counseling – Perinatal (forms and instructions)
- Document 2P(g): Drug Medi-Cal Cost Report Forms – Residential – Perinatal (forms and instructions)
- Document 2P(h): Drug Medi-Cal Cost Report Forms – Narcotic Treatment Program – County – Alcohol and Drug (forms and instructions)
- Document 2P(i): Drug Medi-Cal Cost Report Forms – Narcotic Treatment Program – County – Perinatal (forms and instructions)
- Document 2W: ADP Letter 97-52, “New Minor Consent Aid Codes and Minor Consent Services to Pregnant/Postpartum Youth.”  
<http://www.adp.ca.gov/ADPLTRS/97-52.shtml>
- Document 2Y: Companion Guide for HIPAA 837P and 835 Transactions (April 27, 2004)  
[http://www.adp.ca.gov/hp/pdf/companion\\_guide.pdf](http://www.adp.ca.gov/hp/pdf/companion_guide.pdf)
- Document 3E ADP Bulletin #05-30 – HIPAA Drug Medi-Cal Claim Submission Policy
- Document 3F ADP Bulletin #05-10 – Acceptable Drug Medi-Cal Claim Format for Processing

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Document 3G California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 4 – Narcotic Treatment Programs

<http://www.calregs.com>

Document 3H California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 8 – Certification of Alcohol and Other Drug Counselors

<http://www.calregs.com>

Document 3J CalOMS Treatment Data Collection Guide

<http://www.adp.ca.gov/CalOMS/trainingtools.shtml>

Document 3K Business Associate Agreement: County is the Business Associate of the Department of Alcohol and Drug Programs

Document 3L Business Associate Agreement: Department of Alcohol and Drug Programs is the Business Associate of the County