

# APPENDICES

# **APPENDIX A - PROPOSAL APPLICATION FORM (SPO-H-200)**

STATE OF HAWAII  
STATE PROCUREMENT OFFICE  
**PROPOSAL APPLICATION IDENTIFICATION FORM**

STATE AGENCY ISSUING RFP: \_\_\_\_\_

RFP NUMBER: \_\_\_\_\_

RFP TITLE: \_\_\_\_\_

Check one:

Initial Proposal Application

Final Revised Proposal (Completed Items \_\_\_\_\_ - \_\_\_\_\_ only)

**1. APPLICANT INFORMATION**

Legal Name:

Doing Business As:

Street Address:

Mailing Address:

Contact person for matters involving this application:  
Name:

Title:

Phone Number:

Fax Number:

e-mail:

**2. BUSINESS INFORMATION**

Type of Business Entity (*check one*):

Non-Profit Corporation

Limited Liability Company

Sole Proprietorship

For-Profit Corporation

Partnership

If applicable, state of incorporation and date incorporated:

State:

Date:

**3. PROPOSAL INFORMATION**

Geographic area(s):

Target group(s):

**4. FUNDING REQUEST**

FY \_\_\_\_\_

FY \_\_\_\_\_

FY \_\_\_\_\_

FY \_\_\_\_\_

FY \_\_\_\_\_

FY \_\_\_\_\_

Grand Total \_\_\_\_\_

I certify that the information provided above is to the best of my knowledge true and correct.

\_\_\_\_\_  
*Authorized Representative Signature*

\_\_\_\_\_  
*Date Signed*

\_\_\_\_\_  
*Name and Title*

## **APPENDIX B - GLOSSARY**

## **APPENDIX B GLOSSARY**

|                                    |   |
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| <b>ABD</b>                         | Aged, blind and disabled  |
| <b>Admission</b>                   | The formal acceptance of a patient into a facility for a medical, surgical, or obstetrical condition  |
| <b>AMA</b>                         | American Medical Association  |
| <b>Abuse</b>                       | Incidents or practices of providers that are inconsistent with accepted sound medical practices.  |
| <b>Advanced Nurse Practitioner</b> | A registered nurse with advanced education and clinical experience who is qualified within his/her scope of practice under state law to provide a wide range of primary and preventive health care services, prescribe medication , and diagnose and treat common minor illnesses and injuries. |
| <b>Alcohol Dependence</b>          | Any use of alcohol that produces a pattern of pathological use causing impairment in social or occupational functioning or produces physiological dependency evidenced by physical tolerance or withdrawal.   |
| <b>Ambulatory Care</b>             | Preventive, diagnostic and treatment services provided on an outpatient basis by physicians, nurse practitioners, physician assistants and other primary care providers.  |
| <b>Applicant</b>                   | An individual who completes and signs the HICHCP or HCHCP application form on behalf of himself or herself and/or other family dependents.  |
| <b>Attending Physician</b>         | The physician primarily responsible for the care of a recipient with respect to any particular injury or illness.   |
| <b>Behavioral Health Services</b>  | Services provided to persons who are emotionally disturbed, are mentally ill, abuse or are addicted to alcohol and non-prescription drugs.  |
| <b>Benefit year</b>                | The State Fiscal Year (SFY) from July 1 to June 30.   |
| <b>Benefits</b>                    | Those medically necessary services and supplies that the member is entitled under HIHCP or HCHCP, and   |

which the managed care plan arranges to provide to said recipients applicable co-payments.

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| <b>Benefit Maximum</b>                    | The maximum benefit amount allowed for certain covered services. A benefit maximum may limit the duration or the number of visits for covered services.   |
| <b>Care Coordinator/<br/>Case Manager</b> | An individual who coordinates, monitors and ensures that appropriate and timely care is provided to the recipient. A case manager may be the recipient's PCP, or specific person identified by the medical plan.  |
| <b>Children</b>                           | All eligible individuals from 31 days old through 18 years old.   |
| <b>Contraceptives</b>                     | Any oral contraceptives that prevents impregnation.   |
| <b>Contraceptive Devices</b>              | Services intended to promote the effective use of prescription contraceptives supplies or devices to prevent pregnancy  |
| <b>Contract</b>                           | Written agreement between DHS and the Offeror   |
| <b>Contract services</b>                  | The services to be delivered by the Offeror which are designated by DHS.  |
| <b>Co-payment</b>                         | A specific dollar amount or percentage of the charge identified which is paid by a recipient at the time of service to a managed care plan, physician, hospital or other provider of care for covered services provided to the recipient. No individuals under this contract have a co-payment requirement. |
| <b>Covered services</b>                   | Those services and benefits to which the recipient is entitled under HIHCP or HCHCP.  |
| <b>Dental emergency</b>                   | An oral condition requiring immediate dental services to control bleeding, eliminate acute infection, treat injuries to teeth or supportive structures, or provide palliative treatment without delay.  |
| <b>Dependent</b>                          | A recipient's legal spouse or dependent child who meets all eligibility requirements.   |
| <b>DHS</b>                                | Department of Human Services.   |

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| <b>Director</b>                     | Director of the Department of Human Services, State of Hawaii.  |
| <b>Drug Dependence</b>              | Any pattern of pathological use of drugs causing impairments in social or occupational functioning and producing psychological or physiological dependency or both, evidenced by physical tolerance or withdrawal.  |
| <b>Effective date of Enrollment</b> | The date from which an individual is covered by the managed care plan.  |
| <b>Eligibility determination</b>    | A process of determining, upon receipt of written application, whether an individual or family is eligible for HIHCP or HCHCP.  |
| <b>Emergency</b>                    | A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to body functions or serious dysfunction of any bodily organ or part. |
| <b>Encounter</b>                    | A record of medical services rendered by a provider to a recipient enrolled in the plan on the date of service.   |
| <b>Encounter data</b>               | A compilation of encounters. Managed care plans are required to submit all encounter data on a monthly basis.   |
| <b>Enrollee</b>                     | Beneficiary who selects or is autoassigned to a plan.   |
| <b>Enrollment</b>                   | The process by which an applicant who has been determined eligible becomes a member in a managed care plan, subject to the limitations specified in the DHS Rules.  |
| <b>EPSDT</b>                        | Early and Periodic Screening, Diagnosis and Treatment   |

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| <b>Fee-For-Service (FFS)</b>                 | A method of payment to registered providers based on the fee-for-service schedule.  |
| <b>FQHC</b>                                  | Federally qualified health center   |
| <b>Fiscal Year or FY</b>                     | The twelve month period for the State Fiscal Year from July 1 through June 30.  |
| <b>Fraud</b>                                 | An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or to some other person.  |
| <b>Generic Drug</b>                          | A drug which is prescribed or dispensed under its commonly used generic name rather than a brand name and which is not protected by patent, or a drug identified as "generic".  |
| <b>Grievance</b>                             | A problem or concern presented for resolution through a grievance procedure.  |
| <b>Grievance procedure</b>                   | The formal process for resolution of problems or complaints raised by an individual which cannot be resolved in an informal manner to the individual's  |
| <b>Health assessment</b>                     | Means an evaluation of the health status of an individual, including an evaluation of the individual's lifestyle and need for continuing health services.   |
| <b>Health Maintenance Organization (HMO)</b> | Various forms of plan organization, including staff and group models, that through a coordinated system of care, provides or assures the delivery of an agreed upon set of health maintenance and treatment services for an enrolled group of members on a prepaid fixed basis. |
| <b>Managed care plan</b>                     | Any health care organization, insurance company or health maintenance organization, which provides covered services on a risk basis to members in exchange for premium payments.  |
| <b>Hospital</b>                              | Any hospital in the service area to which a recipient is admitted to receive hospital services pursuant to arrangements made by a physician.  |

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| <b>Hospital services</b> | Except as expressly limited or excluded by this agreement, those medically necessary services for registered bed patients that are generally and customarily provided by acute care general hospitals in the service area and prescribed, directed or authorized by the attending physician.  |
| <b>IBNR</b>              | (Incurred But Not Reported): Liability for services rendered for which claims have not been received. Includes Reported but Unpaid Claims (RBUC).   |
| <b>Illness or Injury</b> | Any bodily disorder, bodily injury, disease or condition (includes pregnancy and complications of pregnancy).   |
| <b>Infant</b>            | Newborn through 30 days old.  |
| <b>Managed Care</b>      | A comprehensive approach to the provision of health care that combines clinical services and administrative procedures within an integrated, coordinated system to provide timely access to primary care and other necessary services in a cost effective manner.   |
| <b>Medicaid</b>          | A Federal/State program authorized by Title XIX of the Social Security Act, as amended, which provides Federal matching grants for a medical assistance program for recipients of federally aided public assistance and SSI benefits and other specified groups. Certain minimal populations and services must be included to receive FFP; however, states may optionally include certain additional population and services at State expense and also receive FFP. |
| <b>Medical expenses</b>  | The costs (excluding administrative costs) associated with the provision of covered medical services under a managed care plan.   |
| <b>Medical office</b>    | Any outpatient treatment facility staffed by a physician or member of the managed care plan.  |
| <b>Medical services</b>  | Except as expressly limited or excluded by this agreement, those medically necessary professional services of physicians, other health professionals and paramedical personnel that are generally and   |

customarily provided in the service area and performed, prescribed or directed by the attending physician.

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| <b>Medical specialist</b>    | A physician, surgeon, or osteopath who is board certified or board eligible in a specialty listed by the American Medical Association, or who is recognized as a specialist by the participating health care plan or managed care health system.  |
| <b>Member</b>                | The person who meets applicable eligibility requirements and who executes the application form that is approved.  |
| <b>MQD</b>                   | Hawaii Med-QUEST Division, which has the responsibility for administering the medical assistance programs for the Department.   |
| <b>Newborn</b>               | A recently born infant. For the HIHCP, this is an infant from birth through 30 days old.  |
| <b>Newborn Care</b>          | All routine non-surgical physician services and nursery care provided to a newborn during the mother's initial hospitalization  |
| <b>Offeror</b>               | A person, organization or entity agreeing through a direct contracting relationship with DHS to provide those goods and services specified by contract in conformance the requirements of such contact and DHS rules.   |
| <b>Participating</b>         | When referring to a health care plan, means a plan that has entered into a contract with DHS to provide covered services to members. When referring to a health care provider, means a provider who is employed by or who has entered into a contract with a health care plan to provide covered services to members. When referring to a facility, means a facility which is owned and operated by, or which has entered into a contract with a health care plan for the provision of covered services to members. |
| <b>Physician</b>             | Any doctor of medicine associated with or engaged by a managed care plan.   |
| <b>Primary Care Provider</b> | Is licensed in Hawaii and is 1) a physician, either an  |

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| <b>(PCP)</b>                           | M.D. (Doctor of Medicine) or a D.O. (Doctor of Osteopathy), and must generally be a family practitioner, general practitioner, general internist, pediatrician or obstetrician/gynecologist (for women, especially pregnant women); or 2) a nurse practitioner, and must generally be a family nurse practitioner, pediatric nurse practitioner or nurse midwife. Has the responsibility for supervising, coordinating and providing initial and primary care to the enrollee and for initiating referrals and maintaining the continuity of enrollee care, |
| <b>Private Health Insurance Policy</b> | Any health insurance program, other than a disease-specific or accident-only policy, for which a person pays for insurance benefits directly to the carrier rather than through participation in an employer or union sponsored program.  |
| <b>Proposal</b>                        | The offer submitted in the prescribed manner to perform the benefit plan services specified at the monthly premiums quoted.   |
| <b>Provider</b>                        | An individual, clinic, or institution, including but not limited to physicians, osteopaths, nurses, referral specialists and hospitals, responsible for the provision of health services under a managed care plan.   |
| <b>Recipient</b>                       | Any subscriber or family dependent who meets all eligibility requirements, is enrolled in a plan and for whom an applicable monthly contribution has been paid.   |
| <b>Resident of Hawaii</b>              | A person who is physically present in the State and establishes his or her intent to reside in Hawaii.  |
| <b>RFP</b>                             | Request For Proposal  |
| <b>RHC</b>                             | Rural Health Center   |
| <b>Service Area</b>                    | The geographical area defined by zip codes, census tracts, or other geographic subdivisions that is served by a participating managed care plan as defined in its contract with DHS.  |
| <b>State</b>                           | The State of Hawaii   |

|                                   |  |
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| <b>State Contribution</b>         | The portion of a participating managed care plan's premium that is remitted by DHS directly to the recipient's designated managed care plan.                                       |
| <b>Sub-Offendor</b>               | Any written agreement between the Offeror and another party to fulfill the requirements of the contract.   |
| <b>Urgent care</b>                | The diagnosis and treatment of medical conditions which are serious or acute but pose no immediate threat to life and health but which requires medical attention within 24 hours. |
| <b>Utilization Review Program</b> | The requirements established by a participating managed care plan regarding its pre-authorization, concurrent and retrospective review of health services.                         |

**APPENDIX C - GENERAL CONDITIONS**

**GENERAL CONDITIONS FOR HEALTH & HUMAN SERVICES CONTRACTS  
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**GENERAL CONDITIONS FOR HEALTH & HUMAN SERVICES CONTRACTS****1. Representations and Conditions Precedent****1.1 Contract Subject to the Availability of State and Federal Funds.**

1.1.1 State Funds. This Contract is, at all times, subject to the appropriation and allotment of state funds, and may be terminated without liability to either the PROVIDER or the STATE in the event that state funds are not appropriated or available.

1.1.2 Federal Funds. To the extent that this Contract is funded partly or wholly by federal funds, this Contract is subject to the availability of such federal funds. The portion of this Contract that is to be funded federally shall be deemed severable, and such federally funded portion may be terminated without liability to either the PROVIDER or the STATE in the event that federal funds are not available. In any case, this Contract shall not be construed to obligate the STATE to expend state funds to cover any shortfall created by the unavailability of anticipated federal funds.

1.2 Representations of the PROVIDER. As a necessary condition to the formation of this Contract, the PROVIDER makes the representations contained in this paragraph, and the STATE relies upon such representations as a material inducement to entering into this Contract.

1.2.1 Compliance with Laws. As of the date of this Contract, the PROVIDER complies with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the PROVIDER's performance of this Contract.

1.2.2 Licensing and Accreditation. As of the date of this Contract, the PROVIDER holds all licenses and accreditations required under applicable federal, state, and county laws, ordinances, codes, rules, and regulations to provide the Required Services under this Contract.

1.3 Compliance with Laws. The PROVIDER shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the PROVIDER's performance of this Contract, including but not limited to the laws specifically enumerated in this paragraph:

1.3.1 Smoking Policy. The PROVIDER shall implement and maintain a written smoking policy as required by Chapter 32K, Hawaii Revised Statutes, or its successor provision.

1.3.2 Drug Free Workplace. The PROVIDER shall implement and maintain a drug free workplace as required by the Drug Free Workplace Act of 1988.

1.3.3 Persons with Disabilities. The PROVIDER shall implement and maintain all practices, policies, and procedures required by federal, state, or county law, including but not

limited to the Americans with Disabilities Act (42 U.S.C. §12101, et seq.), and the Rehabilitation Act (29 U.S.C. §701, et seq.).

- 1.3.4 Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the PROVIDER, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
  
- 1.4 Insurance Requirements. The PROVIDER shall obtain from a company authorized by law to issue such insurance in the State of Hawai'i commercial general liability insurance ("liability insurance") in an amount of at least TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) coverage for bodily injury and property damage resulting from the PROVIDER's performance under this Contract. The PROVIDER shall maintain in effect this liability insurance until the STATE certifies that the PROVIDER's work under the Contract has been completed satisfactorily.  
  
The liability insurance shall be primary and shall cover the insured for all work to be performed under the Contract, including changes, and all work performed incidental thereto or directly or indirectly connected therewith.  
  
A certificate of the liability insurance shall be given to the STATE by the PROVIDER. The certificate shall provide that the STATE and its officers and employees are Additional Insureds. The certificate shall provide that the coverages being certified will not be cancelled or materially changed without giving the STATE at least 30 days prior written notice by registered mail.  
  
Should the "liability insurance" coverages be cancelled before the PROVIDER's work under the Contract is certified by the STATE to have been completed satisfactorily, the PROVIDER shall immediately procure replacement insurance that complies in all respects with the requirements of this section.  
  
Nothing in the insurance requirements of this Contract shall be construed as limiting the extent of PROVIDER's responsibility for payment of damages resulting from its operations under this Contract, including the PROVIDER's separate and independent duty to defend, indemnify, and hold the STATE and its officers and employees harmless pursuant to other provisions of this Contract.
  
- 1.5 Notice to Clients. Provided that the term of this Contract is at least one year in duration, within ONE HUNDRED AND EIGHTY (180) days after the effective date of this Contract, the PROVIDER shall create written procedures for the orderly termination of services to any clients receiving the Required Services under this Contract, and for the transition to services supplied by another provider upon termination of this Contract, regardless of the circumstances of such termination. These procedures shall include, at the minimum, timely notice to such clients of the termination of this Contract, and appropriate counseling.
  
- 1.6 Reporting Requirements. The PROVIDER shall submit a Final Project Report to the STATE containing the information specified in this Contract if applicable, or otherwise satisfactory to the STATE, documenting the PROVIDER's overall efforts toward meeting the requirements of this

Contract, and listing expenditures actually incurred in the performance of this Contract. The PROVIDER shall return any unexpended funds to the STATE.

- 1.7 Conflicts of Interest. In addition to the Certification provided in the Standards of Conduct Declaration to this Contract, the PROVIDER represents that neither the PROVIDER nor any employee or agent of the PROVIDER, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the PROVIDER's performance under this Contract.

## 2. Documents and Files

### 2.1 Confidentiality of Material.

2.1.1 Proprietary or Confidential Information. All material given to or made available to the PROVIDER by virtue of this Contract that is identified as proprietary or confidential information shall be safeguarded by the PROVIDER and shall not be disclosed to any individual or organization without the prior written approval of the STATE.

2.1.2 Uniform Information Practices Act. All information, data, or other material provided by the PROVIDER to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS, and any other applicable law concerning information practices or confidentiality.

- 2.2 Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished that is developed, prepared, assembled, or conceived by the PROVIDER pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the PROVIDER pursuant to this Contract.

- 2.3 Records Retention. The PROVIDER and any subcontractors shall maintain the books and records that relate to the Contract, and any cost or pricing data for three (3) years from the date of final payment under the Contract. In the event that any litigation, claim, investigation, audit, or other action involving the records retained under this provision arises, then such records shall be retained for three (3) years from the date of final payment, or the date of the resolution of the action, whichever occurs later. During the period that records are retained under this section, the PROVIDER and any subcontractors shall allow the STATE free and unrestricted access to such records.

## 3. Relationship between Parties

- 3.1 Coordination of Services by the STATE. The STATE shall coordinate the services to be provided by the PROVIDER in order to complete the performance required in the Contract. The PROVIDER shall maintain communications with the STATE at all stages of the PROVIDER's

work, and submit to the STATE for resolution any questions which may arise as to the performance of this Contract.

- 3.2 Subcontracts and Assignments. The PROVIDER may assign or subcontract any of the PROVIDER's duties, obligations, or interests under this Contract, but only if (i) the PROVIDER obtains the prior written consent of the STATE and (ii) the PROVIDER's assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawai'i, and the Internal Revenue Service showing that all delinquent taxes, if any, levied or accrued under state law against the PROVIDER's assignee or subcontractor have been paid. Additionally, no assignment by the PROVIDER of the PROVIDER's right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawai'i, as provided in section 40-58, HRS.
- 3.3 Change of Name. When the PROVIDER asks to change the name in which it holds this Contract, the STATE, shall, upon receipt of a document acceptable or satisfactory to the STATE indicating such change of name such as an amendment to the PROVIDER's articles of incorporation, enter into an amendment to this Contract with the PROVIDER to effect the change of name. Such amendment to this Contract changing the PROVIDER's name shall specifically indicate that no other terms and conditions of this Contract are thereby changed, unless the change of name amendment is incorporated with a modification or amendment to the Contract under paragraph 4.1 of these General Conditions.
- 3.4 Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
- 3.4.1 Independent Contractor. In the performance of services required under this Contract, the PROVIDER is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE's opinion, the services are being performed by the PROVIDER in compliance with this Contract.
- 3.4.2 Contracts with Other Individuals and Entities. Unless otherwise provided by special condition, the STATE shall be free to contract with other individuals and entities to provide services similar to those performed by the PROVIDER under this Contract, and the PROVIDER shall be free to contract to provide services to other individuals or entities while under contract with the STATE.
- 3.4.3 PROVIDER's Employees and Agents. The PROVIDER and the PROVIDER's employees and agents are not by reason of this Contract, agents or employees of the State for any purpose. The PROVIDER and the PROVIDER's employees and agents shall not be entitled to claim or receive from the STATE any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees. Unless specifically authorized in writing by the STATE, the PROVIDER and the PROVIDER's employees and agents are not authorized to speak on behalf and no statement or admission made by the PROVIDER or the PROVIDER's employees or

agents shall be attributed to the STATE, unless specifically adopted by the STATE in writing.

- 3.4.4 PROVIDER's Responsibilities. The PROVIDER shall be responsible for the accuracy, completeness, and adequacy of the PROVIDER's performance under this Contract.

Furthermore, the PROVIDER intentionally, voluntarily, and knowingly assumes the sole and entire liability to the PROVIDER's employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the PROVIDER, or the PROVIDER's employees or agents in the course of their employment.

The PROVIDER shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the PROVIDER by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The PROVIDER also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.

The PROVIDER shall obtain a general excise tax license from the Department of Taxation, State of Hawai'i, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The PROVIDER shall obtain a tax clearance certificate from the Director of Taxation, State of Hawai'i, and the Internal Revenue Service showing that all delinquent taxes, if any, levied or accrued under state law against the PROVIDER have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The PROVIDER shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under section 103-53, HRS, and these General Conditions.

The PROVIDER is responsible for securing all employee-related insurance coverage for the PROVIDER and the PROVIDER's employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

3.5 Personnel Requirements.

- 3.5.1 Personnel. The PROVIDER shall secure, at the PROVIDER's own expense, all personnel required to perform this Contract, unless otherwise provided in this Contract.
- 3.5.2 Requirements. The PROVIDER shall ensure that the PROVIDER's employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

**4. Modification and Termination of Contract**

**4.1 Modifications of Contract.**

4.1.1 In Writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the PROVIDER and the STATE.

4.1.2 No Oral Modification. No oral modification, alteration, amendment, change, or extension of any term, provision or condition of this Contract shall be permitted.

4.1.3 Tax Clearance. The STATE may, at its discretion, require the PROVIDER to submit to the STATE, prior to the STATE's approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawai'i, and the Internal Revenue Service showing that all delinquent taxes, if any, levied or accrued under state and federal law against the PROVIDER have been paid.

4.2 Termination in General. This Contract may be terminated in whole or in part for a reduction in funds available to pay the PROVIDER, or when, in its sole discretion, the STATE determines (i) that there has been a change in the conditions upon which the need for the Required Services was based, (ii) that the PROVIDER has failed to provide the Required Services adequately or satisfactorily, or (iii) that other good cause for the whole or partial termination of this Contract exists. Termination under this section shall be made by a written notice sent to the PROVIDER ten (10) working days prior to the termination date that includes a brief statement of the reason for the termination. If the Contract is terminated under this paragraph, the PROVIDER shall cooperate with the STATE to effect an orderly transition of services to clients.

4.3 Termination for Necessity or Convenience. If the STATE determines, in its sole discretion, that it is necessary or convenient, this Contract may be terminated in whole or in part at the option of the STATE upon ten (10) working days' written notice to the PROVIDER. If the STATE elects to terminate under this paragraph, the PROVIDER shall be entitled to reasonable payment as determined by the STATE for satisfactory services rendered under this Contract up to the time of termination. If the STATE elects to terminate under this section, the PROVIDER shall cooperate with the STATE to effect an orderly transition of services to clients.

4.4 Termination by PROVIDER. The PROVIDER may withdraw from this Contract after obtaining the written consent of the STATE. The STATE, upon the PROVIDER's withdrawal, shall determine whether payment is due to the PROVIDER, and the amount that is due. If the STATE consents to a termination under this paragraph, the PROVIDER shall cooperate with the STATE to effect an orderly transition of services to clients.

4.5 STATE's Right of Offset. The STATE may offset against any monies or other obligations that STATE owes to the PROVIDER under this Contract, any amounts owed to the State of Hawai'i by the PROVIDER under this Contract, or any other contract, or pursuant to any law or other obligation owed to the State of Hawai'i by the PROVIDER, including but not limited to the

payment of any taxes or levies of any kind or nature. The STATE shall notify the PROVIDER in writing of any exercise of its right of offset and the nature and amount of such offset. For purposes of this paragraph, amounts owed to the State of Hawai'i shall not include debts or obligations which have been liquidated by contract with the PROVIDER, and that are covered by an installment payment or other settlement plan approved by the State of Hawai'i, provided, however, that the PROVIDER shall be entitled to such exclusion only to the extent that the PROVIDER is current, and in compliance with, and not delinquent on, any payments, obligations, or duties owed to the State of Hawai'i under such payment or other settlement plan.

## 5. Indemnification

- 5.1 Indemnification and Defense. The PROVIDER shall defend, indemnify, and hold harmless the State of Hawai'i, the contracting agency, and their officers, employees, and agents from and against any and all liability, loss, damage, cost, expense, including all attorneys' fees, claims, suits, and demands arising out of or in connection with the acts or omissions of the PROVIDER or the PROVIDER's employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.
- 5.2 Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the PROVIDER in connection with this Contract, the PROVIDER shall pay any cost and expense incurred by or imposed on the STATE, including attorneys' fees.

## 6. Publicity

- 6.1 Acknowledgment of State Support. The PROVIDER shall, in all news releases, public statements, announcements, broadcasts, posters, programs, computer postings, and other printed, published, or electronically disseminated materials relating to the PROVIDER's performance under this Contract, acknowledge the support by the State of Hawai'i and the purchasing agency.
- 6.2 PROVIDER's Publicity Not Related to Contract. The PROVIDER shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, or to the services or goods, or both provided under this Contract, in any of the PROVIDER's publicity not related to the PROVIDER's performance under this Contract, including but not limited to commercial advertisements, recruiting materials, and solicitations for charitable donations.

## 7. Miscellaneous Provisions

- 7.1 Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the PROVIDER, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
- 7.2 Paragraph Headings. The paragraph headings appearing in this Contract have been inserted for the purpose of convenience and ready reference. They shall not be used to define, limit, or extend the scope or intent of the sections to which they pertain.

- 7.3 Antitrust Claims. The STATE and the PROVIDER recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the PROVIDER hereby assigns to the STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.
- 7.4 Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawai'i. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawai'i.
- 7.5 Conflict between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the Procurement Rules or a Procurement Directive, the Procurement Rules or any Procurement Directive in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
- 7.6 Entire Contract. This Contract sets forth all of the contracts, conditions, understandings, promises, warranties, and representations between the STATE and the PROVIDER relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no contracts, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the PROVIDER other than as set forth or as referred to herein.
- 7.7 Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
- 7.8 Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE's right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the Procurement Rules or one section of the Hawai'i Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE's rights or the PROVIDER's obligations under the Procurement Rules or statutes.
- 7.9 Execution in Counterparts. This Contract may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one instrument.

## **APPENDIX D - BUSINESS ASSOCIATE LANGUAGE**

## APPENDIX D

### Exhibit

#### Special Conditions

#### Applicable to CONTRACTORS or PROVIDERS that are Business Associates of STATE under 45 CFR § 160.103

1. **Introduction:** This Agreement has been determined to be a business associate relationship under the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (“HIPAA”) and its implementing privacy and security regulations at 45 CFR Part 160 and 164 (“the HIPAA regulations”). The STATE wishes to disclose to Business Associate certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information (PHI). Under this Agreement, CONTRACTOR or PROVIDER is the Business Associate of STATE and provides services, arranges, performs, or assists in the performance of functions or activities on behalf of the STATE, and uses or discloses PHI. STATE and Business Associate desire to protect the privacy and provide for the security of PHI disclosed pursuant to this Agreement, in compliance with HIPAA, and the HIPAA regulations.
2. **Definitions:**
  - a. The terms used in these special conditions, but not otherwise defined, shall have the same meanings as those terms in the HIPAA regulations.
  - b. “Agreement” shall mean the agreement between STATE and Business Associate to which these special conditions are attached, and all attachments, exhibits and any special conditions.
  - c. "Individual" means the person who is the subject of Protected Health Information, and shall include a person who qualifies as a personal representative under § 164.502(g) of the HIPAA regulations.
  - d. "Protected Health Information" means any information, whether oral or recorded in any form or medium, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. For purposes of this Agreement, the term Protected Health Information is limited to the information created or received by Business Associate from or on behalf of STATE.
  - e. "Secretary" shall mean the Secretary of the U.S. Department of Health and Human Services or designee.
  - f. “Security incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an Information System.

## APPENDIX D

3. Obligations and Activities of Business Associate. Business Associate agrees:
- a. To not use or disclose PHI other than as permitted or required by this Agreement or as required by law.
  - b. To use appropriate safeguards to prevent use or disclosure of PHI consistent with the requirements of this Agreement.
  - c. To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the STATE, and to prevent use or disclosure of PHI other than as provided for by this Agreement. This includes adoption of the e-mail encryption solution as defined by the STATE if deemed necessary by the STATE.
  - d. To ensure that any agent, including a subcontractor, to whom Business Associate provides PHI, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such Protected Health Information, and to incorporate, when applicable, the relevant provisions of these special condition into each such subcontract or subaward to such agents or subcontractors.
  - e. To make Business Associate's internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI, available to STATE and/or to the Secretary, at reasonable times and places or as designated by the Secretary or STATE, for purposes of determining STATE's compliance with the HIPAA regulations.
  - f. To document and make available to STATE or, at the direction of STATE, to an individual, such disclosures of PHI and information related to such disclosures necessary for STATE to respond to a request by the subject individual for an accounting of disclosures of PHI in accordance with § 164.528 of the HIPAA regulations.
  - g. To provide access to PHI in the designated record set to STATE or, as directed by STATE, to an individual to the extent and in the manner required by § 164.524 of the HIPAA regulations. "Designated Record Set" means the group of records maintained for the STATE that included medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for STATE health plans; or those records used to make decisions about individuals on behalf of the STATE. Business Associate shall respond to requests for access to records transmitted by the STATE within 10 days of receipt of the request by producing the records or verifying that there are none.
  - h. To make any amendment(s) to PHI that the STATE directs or agrees to in accordance with § 164.526 of the HIPAA regulations individual in the time and manner designated by the STATE.
  - i. To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of these special conditions.

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- j. To provide written notice to STATE within 2 business days of discovery by Business Associate that PHI has been used or disclosed other than as provided for by these special conditions.
- k. To immediately report to STATE any security incident of which it becomes aware with respect to PHI that is in the custody of Business Associate by calling the MQD Civil Defense Coordinator at (808) 348-9171. Written notice shall be provided within 2 business days of discovery. Business Associate shall take (1) prompt corrective action to cure any deficiencies and (2) any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. Business Associate shall investigate such breach and provide a written report of the investigation and resultant mitigation within thirty (30) calendar days of the discovery of the breach.

- l. Notices: Whenever written notice is required under this Agreement, it should be mailed and/or faxed to:

MQD HIPAA Project Manager  
P.O. Box 700190  
Kapolei, Hawaii 96709-0190  
Fax: (808) 692-8155

- m. To train and use reasonable measures to ensure compliance with the requirements of these special conditions by employees who assist in the performance of functions or activities on behalf of the STATE under this Agreement and use or disclose PHI; and discipline such employees who intentionally violate any provisions of these special conditions, including by termination of employment.

#### 4. Permitted Uses and Disclosures by Business Associate

- a. General Use and Disclosure Provisions. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, STATE as specified in this Agreement, provided that such use or disclosure would not violate the HIPAA regulations if done by STATE or the minimum necessary policies and procedures of the STATE.
- b. Specific Use and Disclosure Provisions
  - (i) Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
  - (ii) Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances

## APPENDIX D

of which it is aware in which the confidentiality of the information has been breached.

- (iii) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide data aggregation services to STATE as permitted by § 164.504(e)(2)(i)(B) of the HIPAA regulations.
  - (iv) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1) of the HIPAA regulations.
5. Permissible Requests by STATE. STATE shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA regulations if done by STATE, except if Business Associate will use or disclose PHI for data aggregation or management and administrative activities of Business Associate.
6. Termination for Cause. In addition to any other remedies provided for by this Agreement, upon STATE's knowledge of a material breach by Business Associate of these special conditions, STATE shall either:
- a. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
  - b. If neither termination nor cure are feasible, STATE shall report the violation to the Secretary.
7. Effect of Termination.
- a. Except as provided in section 7.b, below, upon termination of this Agreement, for any reason, Business Associate shall, at STATE's option, return or destroy all PHI received from STATE, or created or received by Business Associate on behalf of STATE. Business Associate shall retain no copies of the PHI. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.
  - b. In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall provide to STATE notification of the conditions that make return or destruction not feasible. For any period of time that return or destruction of PHI is not feasible or not completed, Business Associate shall extend the protections of these special conditions to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.
8. Miscellaneous
- a. Regulatory References. A reference in these special conditions to a section in the HIPAA regulations means the section in effect or as amended.
  - b. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for STATE to comply with the requirements of the HIPAA and the HIPAA Regulations, as the same may be amended.

## APPENDIX D

- c. Survival. The respective rights and obligations of Business Associate under Section 7.b, above, shall survive the termination of this Agreement.
- d. Interpretation. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA regulations, as amended, the HIPAA regulations shall control. Where provisions of this Agreement are different than those mandated in the HIPAA regulations, but are nonetheless permitted by the HIPAA regulations, the provisions of this Agreement shall control. Any ambiguity in this Agreement shall be resolved to permit STATE to comply with the HIPAA regulations.
- e. Third Party Rights. These Special Conditions are entered into solely between, and may be enforced only by, Business Associate and the STATE. These special conditions shall not be deemed to create any rights in third parties or to create any obligations of Business Associate or the STATE to any third party.

## **APPENDIX E – STANDARDS OF CONDUCT**

APPENDIX E

CONTRACT NO. \_\_\_\_\_

PROVIDER'S  
STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

"Agency" means and includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices; and all independent commissions and other establishments of the state government but excluding the courts.

"Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty percent (50%).

"Employee" means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges. (Section 84-3, HRS).

On behalf of:

\_\_\_\_\_

(Name of PROVIDER)

PROVIDER, the undersigned does declare as follows:

1. PROVIDER  is\*  is not a legislator or an employee or a business in which a legislator or an employee has a controlling interest. (Section 84-15(a), HRS).
2. PROVIDER has not been represented or assisted personally in the matter by an individual who has been an employee of the agency awarding this Contract within the preceding two years and who participated while so employed in the matter with which the Contract is directly concerned. (Section 84-15(b), HRS).
3. PROVIDER has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Contract and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Contract, if the legislator or employee had been involved in the development or award of the Contract. (Section 84-14(d), HRS).
4. PROVIDER has not been represented on matters related to this Contract, for a fee or other consideration by an individual who, within the past twelve (12) months, has been an agency employee, or in the case of the Legislature, a legislator, and participated while an employee or legislator on matters related to this Contract. (Sections 84-18(b) and (c), HRS).

PROVIDER understands that the Contract to which this document is attached is voidable on behalf of the STATE if this Contract was entered into in violation of any provision of chapter 84, Hawai'i Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the declarations

\* Reminder to agency: If the "is" block is checked and if the Contract involves goods or services of a value in excess of \$10,000, the Contract may not be awarded unless the agency posts a notice of its intent to award it and files a copy of the notice with the State Ethics Commission. (Section 84-15(a), HRS).

CONTRACT NO. \_\_\_\_\_

above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the STATE.

PROVIDER

By \_\_\_\_\_  
*(Signature)*

Print Name \_\_\_\_\_

Print Title \_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_

**APPENDIX F - WRITTEN QUESTIONS FORMAT**



## **APPENDIX G – PRPOSAL LETTER**

## **Appendix G**

### **STATE OF HAWAII Department of Human Services**

#### **PROPOSAL LETTER RFP-MQD-2008-011**

We propose to furnish and deliver any and all of the deliverables and services named in the attached Request for Proposal for medical services. We are submitting our proposal to provide services for the (check one or both):

- HIHCP
- HCHCP

The administrative rates offered herein shall apply for the period of time stated in the said RFP.

It is understood that this proposal constitutes an offer and when signed by the authorized State of Hawaii official will, with the RFP and any amendments thereto, constitute a valid and legal contract between the undersigned Offeror and the State of Hawaii.

It is understood and agreed that we have read the State's specifications described in the RFP and that this proposal is made in accordance with the provisions of such specifications. By signing this proposal, we guarantee and certify that all items included in this proposal meet or exceed any and all such State specifications. We also affirm, by signing this proposal, that we have reviewed the reference materials in the State's documentation library and that we have used this documentation as a basis for submitting our firm fixed price cost proposal.

It is also understood that failure to enter into the contract upon award shall result in forfeiture of the surety bond, if requested. We agree, if awarded the contract, to deliver goods or services which meet or exceed the specifications.

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Authorized Offeror's Signature/Corporate Seal

Date