

APPENDICES

RFP-MQD-2014-002

APPENDIX A - RFP Interest Form

RFP Number and Title: _____
Organization or Project Name: _____

Contact Person Information: _____

Phone Number: _____ E-mail Address: _____

E-mail Address: _____

Telephone: _____

Fax Number: _____

Mailing Address: _____

Street Address (if different): _____

City: _____ State: _____ Zip Code: _____

Please print in the nearby contact person field unless the person has a title (if any)

APPENDIX B – Contractors with Med-QUEST Division

Appendix B

Contractors with Med-QUEST Division

Program	Contractor
Dental	Hawaii Dental Service (HDS)
QUEST	AlohaCare
QUEST	Hawaii Medical Service Association (HMSA)
QUEST	Kaiser Permanente
QUEST, QExA, CCS	'Ohana Health Plan
QUEST, QExA	UnitedHealthcare Community Plan
SHOTT	Cyrca

APPENDIX C – Written Question Format

**Written Questions Format
MQD Ombudsman
RFP-MQD-2014-002**

Offeror Name	Date Submitted	Question #	RFP Section #	RFP Page #	Paragraph #	Question

APPENDIX D – Proposal Forms

SPO-H-200

Wage Certification

Provider Standards of Conduct

Disclosure Statement

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

STATE OF HAWAII

Department of Human Services

PROPOSAL LETTER

We propose to furnish and deliver any and all of the deliverables and services named in the attached Request for Proposals for behavioral health services. The administrative rates offered herein shall apply for the period of time stated in 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 also understood that failure to enter into the contract upon award shall result in forfeiture of the surety bond. We agree, if awarded the contract, to deliver goods or services which meet or exceed the specifications.

Authorized Offeror's Signature/Corporate Seal

Date

**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND
COOPERATIVE AGREEMENTS**

1. The undersigned certifies, to the best of his or her knowledge and belief, that no Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence on 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 the awarding of any Federal contract, the making of Federal grant, the making of any Federal loan, the entering into of any cooperative Federal contract, grant, loan or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit "Disclosure Form to Report Lobbying" in accordance with its instructions.

3. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for such failure.

Offeror: _____
Signature: _____
Title: _____
Date: _____

DISCLOSURE STATEMENT (CMS REQUIRED)

DHS may refuse to enter into a contract and may suspend or terminate an existing contract, if the offeror fails to disclose ownership or controlling information and related party transaction as required by this policy.

Financial Disclosure requirements in accordance with 42 CFR 455.100 through 455.106 are:

455.104 Information on Ownership & Control

- (1) The name and address of each person with an ownership or controlling interest in the disclosing entity.
- (2) The name and address of each person with an ownership or controlling interest in any subcontractor in which the disclosing entity has direct or indirect ownership of five (5) percent or more.
- (3) Names of persons named in (a) and (b) above who are related to another as spouse, parent, child or sibling of those individuals or organizations with an ownership or controlling interest.
- (4) The names of any other disclosing entity in which a person with an ownership or controlling interest in the disclosing entity also has an ownership or controlling interest.

455.105 Information Related to Business Transactions

- (5) The ownership of any subcontractor with whom the offeror has had business transactions totaling more than \$25,000 during the past 12-month period.
- (6) Any significant business transactions between the offeror and any wholly owned supplier or between the offeror and any subcontractor during the past five-year period.

455.106 Information on Persons Convicted of Crimes

- (7) Name of any person who has an ownership or controlling interest in the offeror, or is an agent or managing employee of the offeror, and has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the Title XX services program since the inception of those programs.

b) Additional information which must be disclosed to DHS is as follows:

- (1) Names and addresses of the Board of Directors of the disclosing entity.
- (2) Name, title and amount of compensation paid annually (including bonuses and stock participation) to the ten (10) highest management personnel.
- (3) Names and addresses of creditors whose loans or mortgages are secured by a five (5) percent or more interest in the assets of the disclosing entity.

c) Additional Related Party Transactions which must be disclosed to DHS is as follows:

- (1) Describe transactions between the disclosing entity and any related party in which a transaction or series of transactions during any one (1) fiscal year exceeds the lesser of \$10,000 or two (2) percent of the total operating expenses of the disclosing entity. List property, goods, services, and facilities involved in detail. Note the dollar amounts or other consideration for each item and the date of the transaction(s). Also include justification of the transaction(s) as to the reasonableness, potential adverse impact on the fiscal soundness of the disclosing entity, and the nature and extent of any conflict of interest. This requirement includes, but is not limited to, the sale or exchange, or leasing of any property; and the furnishing for consideration of goods, services or facilities.
- (2) Describe all transactions between the disclosing entity and any related party which includes the lending of money, extensions of credit or any investments in a related party. This type of transaction requires advance administrative review by the Director before being made.
- (3) As used in this section, "related party" means one that has the power to control or significantly influence the offeror, or one that is controlled or significantly influenced by the offeror. "Related parties" include, but are not limited to agents, managing employees, persons with an ownership or controlling interest in the disclosing entity, and their immediate families, subcontractors, wholly-owned subsidiaries or suppliers, parent companies, sister companies, holding companies, and other entities controlled or managed by any of such entities or persons.

42 CFR 456.101 DEFINITIONS

a) "Agent" means any person who has been delegated the authority to obligate or act on behalf of a provider.

b) "Convicted" means that a judgment of conviction, has been entered by a Federal, State or local court, regardless of whether an appeal from that judgment is pending.

- c) "Disclosing entity" means a Provider.
- d) "Other disclosing entity" means any other disclosing entity but is required to disclose certain ownership and control information because of participation in any of the programs established under Title V, XVIII, or XX of the Social Security Act.
- This includes:
- (1) Any hospital, skilled nursing facility, home health agency, independent clinical laboratory, renal disease facility, rural health clinic, or health maintenance organization that participates in Medicare (Title XVIII);
 - (2) Any Medicare intermediary or carrier; and
 - (3) Any entity that furnishes, or arranges for the furnishing of, health-related services for which it claims payment under any plan or program established under Title V or Title XIX of the Social Security Act.
- e) "Fiscal agent" means a contractor that processes or pays vendor claims on behalf of DHS.
- f) "Group of practitioners" means two or more health care practitioners who practice their profession at a common location (whether or not they share common facilities, common supporting staff, or common equipment).
- g) "Indirect ownership interest" means an ownership interest in an entity that has an ownership interest in the disclosing entity. This term includes an ownership interest in any entity that has an indirect ownership interest in the disclosing entity.
- h) "Managing employee" means a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of an institution, organization or agency.
- i) "Ownership interest" means the possession of equity in the capital, the stock, or the profits of the disclosing entity.
- j) "Person with an ownership or controlling interest" means a person or corporation that:
- (1) Has an ownership interest totaling five (5) percent or more in a disclosing entity;
 - (2) Has an indirect ownership interest equal to five (5) percent or more in a disclosing entity;
 - (3) Has a combination of direct and indirect ownership interests equal to five (5) percent or more in a disclosing entity;

- (4) Owns an interest of five (5) percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least five (5) percent of the value of the property or assets of the disclosing entity;
 - (5) Is an officer or director of a disclosing entity that is organized as a corporation; or
 - (6) Is a partner in a disclosing entity that is organized as a partnership.
- k) "Significant business transaction" means any business transaction or series of transactions that, during any one fiscal year, exceed the lesser of \$25,000 and five (5) percent of an offeror's total operating expenses.
- l) "Subcontractor" means:
- (1) An individual, agency or organization to which a disclosing entity has contracted or delegated some of its management functions or responsibilities of providing medical care to its patients; or
 - (2) An individual, agency, or organization with which a fiscal agent has entered into a contract, agreement, purchase order, or lease (or leases of real property) to obtain space, supplies, equipment, or services provided under the DHS agreement.
- m) "Supplier" means an individual, agency, or organization from which a Provider purchases goods and services used in carrying out its responsibilities under its NHS contract (e.g., a commercial laundry, a manufacturer of hospital beds, or a pharmaceutical firm).
- n) "Wholly owned subsidiary supplier" means a subsidiary or supplier whose total ownership interest is held by an offeror or by a person, persons, or other entity with an ownership or controlling interest in an offeror.

2. Describe all transactions between the disclosing entity *and* any related party which includes the lending of money, extensions of credit or any investments in a related party. This type of transaction requires advance administrative review by the Director before being made.

Description of Transaction(s)	Name of Related Party and Relationship	Dollar Amount for Reporting Period
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Justification

DISCLOSURE STATEMENT

Provider NAME/NO. _____

DISCLOSURE STATEMENT FOR THE YEAR ENDED _____

I hereby attest that the information contained in the Disclosure Statement is current, complete and accurate to the best of my knowledge. I also attest that these reported transactions are reasonable, will not impact on the fiscal soundness of the Provider, and are without conflict of interest. I understand that whoever knowingly and willfully makes or causes to be made a false statement or representation on the statement may be prosecuted under applicable state laws. In addition, knowingly and willfully failing to fully and accurately disclose the information requested may result in denial of a request to participate in Ombudsman Services.

Date Signed

Chief Executive Officer (Name and Title
Typewritten)

Notarized

Signature

DISCLOSURE STATEMENT OWNERSHIP

Provider Name, Provider No.: _____
Address (City, State, Zip): _____
Telephone: _____

For the period beginning: _____ and ending _____ Type
of Provider:

- Staff — A Provider that delivers services through a group practice established to provide health services to Provider members; doctors are salaried,
- Group — A Provider that contracts with a group practice to provide health services; the group is usually compensated on a capitation basis.
- IPA — A Provider that contracts with an association of doctors from various settings (some solo practitioners, some groups) to provide health services.
- Network — A Provider that contracts with two or more group practices to provide health services.

Type of Entity:

- Sole Proprietorship
- Partnership
- Corporation
- Governmental

- For-Profit
- Not-For-Profit
- Other (specify)

455.104 Information on Ownership and Control

a. List the names and addresses of any individuals or organizations with an ownership or controlling interest in the disclosing entity. "Ownership or control interest" means, with respect to the entity, an individual or organization who (A)(1) has a direct or indirect ownership interest of 5 per centum or more in the entity, or in the case of nonprofit corporation, is a member; or (ii) is the owner of a whole or part interest in *any* mortgage, deed or trust, note, or other obligation secured (in whole or in part) *by* the entity or any of the property or assets thereof, which whole or part interest is equal to or exceeds 5 per centum of the total property and assets of the entity; or (B) has the ability to appoint or is otherwise represented by an officer or director of the entity, if the entity is organized as a corporation; or (C) is a partner in the entity, if the entity is organized as a partnership.

Name	Address	Percent of Ownership Control

b. List the names and addresses of any individuals or organizations with an ownership or controlling interest in any subcontractor in which the disclosing entity has direct or indirect ownership of five (5) percent or more.

Name	Address	Percent of Ownership Control

c. Names of persons named in (a) and (b) above who are related to another as spouse, parent, child, or sibling of those individuals or organizations with an ownership or controlling interest.

Name	Address	Percent of Ownership Control

d. List the names of any other disclosing entity in which a person with an ownership or controlling interest in the disclosing entity also has an ownership or controlling interest.

Name	Address	Percent of Ownership Control

455.105 Information Related to Business Transactions

e. List the ownership of any subcontractor with whom the offeror has had business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request.

Describe Ownership of Subcontractors	Type of Business Transaction with Provider	Dollar Amount of Transaction

f. List any significant business transactions between the offeror and any wholly owned supplier or between the offeror and any subcontractor during the five-year period ending on the date of the request.

Describe Ownership of Subcontractors	Type of Business Transaction with Provider	Dollar Amount of Transaction

455.106 Information on Persons Convicted of Crime

g. List the names of any person who has ownership or controlling interest in the offeror, or is an agent or managing employee of the offeror and has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid or the Title XX services program since the inception of those programs.

Name	Address	Title

2. Additional information which must be disclosed to DHS as follows:

a. List the names and addresses of the Board of Director of the Offeror.

Name/Title	Address

Financial Reporting Guide Forms
Organization Structure and Financial Planning Form

- 1) If other than a government agency:
- a. When was your organization formed?
 - b. If your organization is a corporation, attach a list of the names and addresses of the Board of Directors.

2) License/Certification

- a. Indicate all licenses and certifications (i.e., Federal HMO status or State certifications) your organization maintains. Use a separate sheet of paper using the following format:

Service Component	License/Requirement	Renewal Date
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- b. Have any licenses been denied, revoked, or suspended?

Yes _____ No _____ If yes, please explain:

3) Civil Rights Compliance Data

Has any Federal or State agency ever made a finding of noncompliance with any relevant civil rights requirements with respect to your program?

Yes _____ No _____ If yes, please explain:

4) Handicapped Assurance

Does your organization provide assurance that no qualified handicapped person will be denied benefits of or excluded from participation in a program or activity because the offeror's facilities (including subcontractors) are inaccessible to or unusable by handicapped persons? (note: check with local zoning ordinances for handicapped requirements)

Yes _____ If yes, briefly describe how such assurances are provided.
 If no, briefly describe how your organization is taking affirmative steps to provide assurance.
 No _____

5) **Prior Convictions**

List all felony convictions of any key personnel (i.e., Chief Executive Officer, Offeror's Manager, Financial Officers, major stockholders or those with controlling interest, etc.). Failure to make full and complete disclosure shall result in the rejection of your proposal as unresponsive.

6) **Federal Government Suspension/Exclusion**

Has offeror been suspended or excluded from any federal government programs for any reason?

Yes _____

No _____ If yes, please explain:

d. Are management letters on internal controls issued by the accounting firm?

Yes _____ No _____

If yes, attach a copy of the management letter from the latest audit. This must be on the auditor's letterhead and the offeror, by its submission, certifies the letter is unaltered.

If no, the offeror shall provide a comprehensive description of internal control systems. The offeror is responsible for instituting adequate procedures against irregularities and improprieties and enforcing adherence to generally accepted accounting principles.

e. Do you have any uncorrected audit exceptions?

Yes _____ No _____

If yes, provide a copy of the auditor's management letter (see 4(d) of this form for instructions regarding submittal).

5) Does the offeror have an accounting manual?

Yes _____ No _____

If no, the offeror must explain, if it has proper accounting policies and procedures, and how it provides for the dissemination of such accounting policies and procedures within its organization and what controls exist to ensure the integrity of its financial information. The offeror agrees to furnish copies of such written accounting policies and procedures for inspection upon request from the DHS.

6) Does the offeror have a formal basis to allocate indirect costs reflected in your financial statement?

Yes _____ No _____

Explain principal allocation techniques used or to be used. Note the allocation base used for each type of cost allocated.

7) What types of liability insurance does the offeror have?

a. With what company(s)? _____

b. What is the amount of coverage for each type of insurance? _____

8) Provide a complete analysis of revenues and expenses by business segment (lines of business) and by geographic area (by county) for the offeror or its owner(s).

9) Are there any suits, judgments, tax deficiencies, or claims pending against the offeror?

Yes _____ No _____

Briefly describe each item and indicate probable amount.

10) Has the offeror or its owner(s) ever gone through bankruptcy?

Yes _____ No _____

If yes, when? _____

11) Do(es) the offeror's owner(s) intend to provide all necessary funds to make full and timely payments for liabilities (reported or not recognized)?

Yes _____ No _____

If yes, describe the dollar amount(s) and source(s) of all funding.

If no, briefly describe how your organization is taking affirmative steps to provide funding.

12) Does the offeror have a performance bonding mechanism in accordance with DHS rules?

Yes _____ No _____

If yes, provide the following information:

Amount of Bond \$ _____

Term of Bond _____

Bonding Company _____

Restrictions on Bond _____

If no, describe how the offeror intends to provide a bond and/or security to meet established DHS rules.

13) Does the offeror have a financial management system to account for incurred, but not reported liabilities?

Yes _____ No _____

If no, the offeror must describe in detail (and attach this description to this form) how it intends to manage, monitor and control IBNR's, The offeror, regardless of response (either yes or no) must complete items "a" through "h" below.

- a. Is your system capable of accurately forecasting all significant claims prior to receipt of all billing? Yes _____ No _____
- b. How often are IBNRs projected? _____

- c. Identify all major data sources most often used.
- d. Are data from open referrals and prior notifications used?
Yes _____ No _____ If so, how?
- e. Are detailed written procedures maintained? Yes _____
No _____
- f. Are IBNR amounts compared with actuals and adjusted when necessary?
Yes _____ No _____
- g. Is the basis of periodic IBNR estimates well documented?
Yes _____ No _____
- h. The offeror must provide a copy of their IBNR procedures and a summary of their IBNR practices. If these procedures do not adequately support any response to this item the offeror is cautioned to provide additional data.

Please identify the developer and name of any computerized IBNR system utilized. Indicate if it is administered by internal or external staff. If administered by external staff, state by whom, define how the offeror will control this function. Specify what other IBNR estimation methods will be used to test the accuracy of IBNR estimates, along with the primary system previously identified. (For the purposes of this item "administered" refers to either performing computer related operations or to providing direct supervision of staff operating a system).

14) Does the offeror have a full-time (100%) controller or chief financial officer?

Yes _____

No _____

If yes, enter name: _____

15) Are the following items reported on the offeror's financial statements?

a. Medicare reimbursement

Yes _____

No _____

b. Other third-party recoveries

Yes _____

No _____

If no, explain why.

Controlling Interest Form

The offeror must provide the name and address of any individual which owns or controls more than ten percent (10%) of stock or that has a controlling interest (i.e., ability to formulate, determine or veto business policy decisions, etc.). Failure to make full disclosure may result in rejection of the offeror's proposal as unresponsive.

Name	Address	Owner or Controller	Has Controlling Interest?	
			Yes	No

Background Check Information Form

The offeror must provide sufficient information concerning key personnel (i.e. Chief Executive Officer, Medical Director, Financial Officer, Consultants, Accountants, Attorneys, etc.) to enable DHS to conduct background checks. Failure to make full and complete disclosure may result in rejection of your proposal as unresponsive. Attach resumes for all individuals listed below.

Name**	Ever known by another name*		Social Security	Date of Birth	Place of birth
	Yes	No	Account #	(Da/Mo/Yr)	City/County/State

* If yes, provide all other names. Use a separate sheet if necessary.

** For each person listed:

- a. Give addresses for the last ten years
- b. Ever suspended from any Federal program for any reason?

Yes _____

No _____

If yes, please explain.

Operational Certification Submission Form

The offeror must complete the attached certification as documentation that it shall maintain member handbook, appointment procedures, referral procedures and other operating requirements in accordance with either DHS rules or policies and procedures.

By signing below the offeror certifies that it shall at all times during the term of this contract provide and maintain member handbook, appointment procedures, referral procedures, quality assurance program, utilization management program and other operating requirements in accordance with either DHS rule(s) or policies and procedures. The offeror warrants that in the event DHS discovers, through an operational review, that the offeror has failed to maintain these operating procedures, the offeror will be subject to a non-refundable, non-waivable sanction in accordance with DHS Rules.

Signature

Date

Operational Certification Submission Form

The offeror must complete the attached certification as documentation that it shall maintain member handbook, appointment procedures, referral procedures and other operating requirements in accordance with either DHS rules or policies and procedures.

By signing below the offeror certifies that it shall at all times during the term of this contract provide and maintain member handbook, appointment procedures, referral procedures, quality assurance program, utilization management program and other operating requirements in accordance with either DHS rule(s) or policies and procedures. The offeror warrants that in the event DHS discovers, through an operational review, that the offeror has failed to maintain these operating procedures, the offeror will be subject to a non-refundable, non-waivable sanction in accordance with DHS Rules.

Signature

Date

Grievance System Form

The offeror must complete the form below and submit with this proposal.

I hereby certify that _____

Offeror Name

will have in place on the commencement date of this contract a system for reviewing and adjudicating grievances by recipients and providers arising from this contract in accordance with DHS Rules and as set forth in the Request for Proposal.

I understand such a system must provide for prompt resolution of grievances and assure the participation of individuals with authority to require corrective action.

I further understand the offeror must have a grievance policy for recipients and providers which defines their rights regarding any adverse action by the offeror. The grievance policy shall be in writing and shall meet the minimum standards set forth in this Request for Proposal.

I further understand evaluation of the grievance procedure shall be conducted through documentation submission, monitoring, reporting, and on-site audit, if necessary, by DHS and deficiencies are subject to sanction in accordance with DHS rules.

Authorized Signature

Date

Printed Name

Title

INSURANCE REQUIREMENTS CERTIFICATION

Proposals submitted in response to the RFP must include a Certificate of Liability Insurance (COLI) that meets the requirements of the RFP, summarized in the Checklist and sample Form Acord 25 attached hereto. The successful bidder will be required to provide an updated COLI upon contract award.

Time is of the essence in the execution and performance of the contract resulting from this RFP. Therefore, the Offeror must ensure that the COLI submitted with the proposal and, if applicable, the resulting contract, fully and timely complies with the insurance requirements of this RFP.

By signing below, the Offeror certifies that it has completed the attached Checklist and:

(Check and complete one)

- Offeror has included a current COLI with its proposal that fully meets the insurance coverage requirements contained in the RFP and in the attached Checklist.

- Offeror has included a current COLI with its proposal that meets the insurance coverage requirements contained in the RFP and in the attached Checklist and Form, *except for the following* (explain in detail):

If Offeror is awarded a contract, then Offeror certifies that the foregoing deficiencies will be corrected within five (5) business days after contract award.

Name of Offeror

Authorized Representative Signature

Date

Print Name and Title

CERTIFICATE OF LIABILITY INSURANCE (COLI)
CHECKLIST & SAMPLE FORM (ACORD 25 Form (2009/09)¹)

This Checklist must accompany the completed COLI submitted with the proposal and subsequent contract. In the event of a conflict between this Checklist and the terms of the contract, the latter shall prevail.

If a requirement noted below is reflected in a current policy endorsement, a copy of the endorsement may be submitted in lieu of the statement on the COLI. Insurance requirements are subject to oversight by the State of Hawaii Department of Accounting and General Services, Risk Management Office.

- | | | |
|------------|--|---|
| NO. | CERTIFICATE OF INSURANCE LIABILITY REQUIRED ELEMENTS | ✓ |
| (1) | THE DATE THE COLI ISSUED SHOULD NOT BE MORE THAN 15 DAYS FROM THE DATE OF ITS REQUEST. THE COLI SHOULD NOT BE ISSUED OVER 30 DAYS FROM THE DATE OF SUBMISSION. | |
| (2) | THE NAME OF THE "INSURED" MUST MATCH THE NAME OF THE CONTRACTOR/PROVIDER. | |
| (3) | THE INSURER MUST BE LICENSED TO DO BUSINESS IN THE STATE OF HAWAII OR MEET THE REQUIREMENTS OF SECTION 431:8-301, HAWAII REVISED STATUTES. | |
| (4) | THE "COMMERCIAL GENERAL LIABILITY" COVERAGE SHOULD INDICATE COVERAGE ON A "PER OCCURRENCE" BASIS. | |
| (5) | A "POLICY NUMBER" OR BINDER NUMBER SHOULD BE INDICATED. | |
| (6) | THE "EFFECTIVE DATE" SHOULD BE NO LATER THAN THE CONTRACT DATE OR THE FIRST DATE THAT THE CONTRACTOR COMMENCES WORK FOR THE STATE. | |
| (7) | THE "EXPIRATION DATE" SHOULD BE AFTER THE EFFECTIVE DATE OF THE AGREEMENT OR SUPPLEMENTAL AGREEMENT, AS APPLICABLE, AND BE MONITORED TO ENSURE THAT RENEWAL COLI ARE RECEIVED ON A TIMELY BASIS. | |
| (8) | THE LIMITS OF LIABILITY FOR THE FOLLOWING TYPES OF COVERAGE SHOULD BE FOR AT LEAST AS MUCH AS REQUIRED BY THE CONTRACT, NORMALLY IN THE FOLLOWING AMOUNTS (CHECK CONTRACT LANGUAGE FOR SPECIFICS): | |
| | A. COMMERCIAL GENERAL LIABILITY | |
| | \$1 MILLION PER OCCURRENCE, AND | |
| | \$2 MILLION IN THE AGGREGATE | |
| | B. AUTOMOBILE – MAY BE COMBINED SINGLE LIMIT: | |
| | BODILY INJURY: \$1 MILLION PER PERSON, \$1 MILLION PER ACCIDENT | |
| | PROPERTY DAMAGE: \$1 MILLION PER ACCIDENT | |
| | C. WORKERS COMPENSATION/EMPLOYERS LIABILITY (E.L.) | |
| | E.L. EACH ACCIDENT: \$1 MILLION | |
| | E.L. DISEASE: \$1 MILLION PER EMPLOYEE, \$1 MILLION POLICY LIMIT | |
| | E.L. \$1 MILLION AGGREGATE | |

¹ The Contractor should use the Acord form currently in use at the time of submission with the contract.

NO. CERTIFICATE OF INSURANCE LIABILITY REQUIRED ELEMENTS



D. PROFESSIONAL LIABILITY

**\$1 MILLION PER CLAIM, AND
\$2 MILLION ANNUAL AGGREGATE**

- (9) "ANY AUTO" COVERAGE IS REQUIRED, OR IF NOT MARKED, "HIRED AUTOS" AND "NON-OWNED AUTOS" SHOULD BE INDICATED. IF THERE ARE NO CORPORATE-OWNED AUTOS, THEN THE "HIRED & NON-OWNED AUTO" MAY BE ENDORSED TO THE COMMERCIAL GENERAL LIABILITY TO SATISFY THIS REQUIREMENT.
- (10) IF THE LIMITS OF LIABILITY SHOWN FOR GENERAL LIABILITY OR AUTOMOBILE LIABILITY ARE LESS THAN REQUIRED BY CONTRACT, THEN UMBRELLA LIABILITY WITH COMBINED LIMIT MAY SATISFY THE MINIMUM REQUIREMENT AND THE STATE LISTED AS "ADDITIONAL INSURED" ON THE UMBRELLA POLICY OR THE UMBRELLA POLICY IS NOTED AS "FOLLOW FORM" ON THE CERTIFICATE.
- (11) NOTE: THE STATE REQUIRES HIGHER LIMITS OF \$1 MILLION, AS COMPARED TO THE BASIC LIMITS REQUIRED BY STATE LAW REGARDING WORKERS COMPENSATION COVERAGE.
- (12) THE REQUIRED "PROFESSIONAL LIABILITY" COVERAGE SHOULD BE INDICATED IN THIS SECTION.
- (13) THE "ADDL INSR" BOX SHOULD BE CHECKED TO INDICATE THAT THE STATE IS AN ADDITIONAL INSURED UNDER THE POLICY(IES), OR NOTED IN THE DESCRIPTION OF OPERATION BOX AT THE BOTTOM OF THE FORM.
- (14) THE "CERTIFICATE HOLDER" SHOULD BE THE NAME AND ADDRESS OF THE DEPARTMENT OF HUMAN SERVICES/MED-QUEST DIVISION, 1001 KAMOKILA BOULEVARD, SUITE 317, KAPOLEI, HAWAII 96707
- (15) THE COLI SHOULD BE SIGNED BY THE INSURANCE AGENT OR AN INSURANCE COMPANY REPRESENTATIVE.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES BOX: THIS SECTION SHOULD CONTAIN THE FOLLOWING LANGUAGE:

THE STATE OF HAWAII IS AN ADDITIONAL INSURED WITH RESPECT TO OPERATIONS PERFORMED FOR THE STATE OF HAWAII.

ANY INSURANCE MAINTAINED BY THE STATE OF HAWAII SHALL APPLY IN EXCESS OF, AND NOT CONTRIBUTE WITH, INSURANCE PROVIDED BY THIS POLICY.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
(1)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
	PHONE (A.C. No. Exh):	FAX (A.C. No.):
INSURED (2)	INSURER(S) AFFORDING COVERAGE	
	INSURER A:	NAIC #
	INSURER B: (3)	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	INSR	INSR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS (8)
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR (4) GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			13	(5)	(6)	(7)	EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ (10) GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO (9) <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			13				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ (10)
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB DEDUCTIBLE \$ RETENTION \$			13				EACH OCCURRENCE \$ AGGREGATE \$ (10)
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in MN) If yes, describe under DESCRIPTION OF OPERATIONS below			N/A				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ (11) E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	(12)							

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

(14)	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE (15)

Wage Certification

Pursuant to Section 103-55, Hawaii Revised Statutes, I hereby certify that if awarded the contract in excess of \$25,000, the services to be performed will be performed under the following conditions:

1. The services to be rendered shall be performed by employees paid as wages or salaries not less than wages paid to the public officers and employees for similar work, if similar positions are listed in the classification plan of the public sector.
2. All applicable laws of the Federal and State governments relating to worker's compensation, unemployment insurance, payment of wages, and safety will be fully complied with.

I understand that all payments required by Federal and State laws to be made by employers for the benefit of their employees are to be paid in addition to the base wages required by Section 103-55, HRS.

Offeror: _____
Signature: _____
Title: _____
Date: _____

**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 per cent (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

* 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. _____

declarations 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 E – MQD Program Beneficiaries

APPENDIX E

MQD POPULATION BY ISLAND
April 30, 2013

Island	Number of MQD Beneficiaries
Hawaii	62,003
Kauai	16,127
Lanai	702
Maui	30,447
Molokai	3,289
Oahu	179,455
TOTAL	292,023

APPENDIX F – Grievance Process

Grievance Process

The contractor shall have a formal grievance system that is consistent with the requirements of the State of Hawaii and 42 CFR Part 438, Subpart F. The member grievance system shall include an inquiry process, a grievance process and appeals process. In addition, the contractor's grievance system shall provide information to members on accessing to the State's administrative hearing system. The contractor shall require that members exhaust its internal grievance system prior to accessing the State's administrative hearing system.

The contractor shall develop policies and procedures for its grievance system and submit these to the DHS for review and approval by the due date identified in Section 51.700, Readiness Review. The contractor shall submit an updated copy of these policies and procedures within thirty (30) days of any modification for review and approval.

The contractor shall address, log, track and trend all expressions of dissatisfaction, regardless of the degree of seriousness or regardless of whether the member or provider expressly requests filing the concern or requests remedial action. The formal grievance system must be utilized for any expression of dissatisfaction and any unresolved issue.

The contractor shall give members any reasonable assistance in completing forms and taking other procedural steps. This includes, but is not limited to, providing interpreter services and toll-free numbers that have adequate TTY/TTD and interpreter capability.

Appendix F

The contractor shall acknowledge receipt of each filed grievance and appeal in writing within five (5)¹ business days of receipt of the grievance or appeal. The contractor shall have procedures in place to notify all members in their primary language of grievance and appeal resolutions. These procedures may include written translation and oral interpretation activities.

The contractor shall ensure that any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested must be made and reviewed by a healthcare professional that has appropriate medical knowledge and clinical expertise in treating the member's condition or disease.

The contractor shall ensure that individuals who make decisions on grievances and appeals were not involved in any previous level of review or decision-making and are healthcare professionals who have the appropriate clinical expertise, as determined by the State, in treating the member's condition or disease. This requirement applies specifically to reviewers of:

- An appeal of a denial that is based on a lack of medical necessity;
- A grievance regarding denial of expedited resolution of an appeal; or
- A grievance or appeal that involves clinical issues.

¹ The first day shall be the day after the day of receipt of a grievance or appeal. For example, and assuming there are no intervening holidays, if an appeal is received on Monday, the five (5) business day period for acknowledgment of receipt of the appeal is counted from Tuesday. Therefore, the acknowledgment must be sent to the member by the following Monday.

APPENDIX G – General Conditions

**GENERAL CONDITIONS FOR HEALTH & HUMAN SERVICES CONTRACTS
TABLE OF CONTENTS**

	<u>Page(s)</u>
1. Representations and Conditions Precedent.....	1
1.1 Contract Subject to the Availability of State and Federal Funds.....	1
1.1.1 State Funds.....	1
1.1.2 Federal Funds.....	1
1.2 Representations of the PROVIDER.....	1
1.2.1 Compliance with Laws	1
1.2.2 Licensing and Accreditation	1
1.3 Compliance with Laws	1
1.3.1 Smoking Policy.....	1
1.3.2 Drug Free Workplace.....	1
1.3.3 Persons with Disabilities.....	2
1.3.4 Nondiscrimination.....	2
1.4 Insurance Requirements.....	2
1.5 Notice to Clients	2
1.6 Reporting Requirements	3
1.7 Conflicts of Interest.....	3
Documents and Files.....	3
Confidentiality of Material	3
Proprietary or Confidential Information	3
Uniform Information Practices Act	3
2.2 Ownership Rights and Copyright.....	3
2.3 Records Retention.....	3
3. Relationship between Parties.....	4
3.1 Coordination of Services by the STATE	4
3.2 Subcontracts and Assignments	4
3.3 Change of Name	4
3.4 Independent Contractor Status and Responsibilities, Including Tax Responsibilities	4
3.4.1 Independent Contractor.....	4

3.4.2 Contracts with other individuals and entities..... 4

3.4.3 PROVIDER’s employees and agents..... 5

3.4.4 PPROVIDER’s Responsibilites..... 5

3.5 Personnel Requirements..... 6

3.5.1 Personnel..... 6

3.5.2 Requirements 6

4. Modification and Termination of Contract..... 6

4.1 Modifications of Contract..... 6

4.1.1 In writing..... 6

4.1.2 No oral modification..... 6

4.1.3 Tax clearance 6

4.2 Termination in General..... 6

4.3 Termination for Necessity or Convenience 7

4.4 Termination by PROVIDER..... 7

4.5 STATE’s Right of Offset..... 7

Indemnification 7

5.1 Indemnification and Defense 7

5.2 Cost of Litigation..... 7

6. Publicity 8

6.1 Acknowledgment of State Support..... 8

6.2 PROVIDER’s publicity not related to contract 8

7. Miscellaneous Provisions..... 8

7.1 Nondiscrimination..... 8

7.2 Paragraph Headings 8

7.3 Antitrust Claims 8

7.4 Governing Law 8

7.5 Conflict between General Conditions and Procurement Rules..... 8

7.6 Entire Contract..... 8

7.7 Severability 9

7.8 Waiver..... 9

7.9 Execution in Counterparts..... 9

8. Confidentiality of Personal Information..... 9

8.1 Definitions..... 9

8.1.1 Personal Information..... 9

8.1.2 Technological Safeguards..... 9

8.2 Confidentiality of Material 10

8.2.1 Safeguarding of Material 10

8.2.2 Retention, Use, or Disclosure 10

8.2.3 Implementation of Technological Safeguards 10

8.2.4 Reporting of Security Breaches 10

8.2.5 Mitigation of Harmful Effect..... 10

8.2.6 Log of Disclosures 10

8.3 Security Awareness Training and Confidentiality Agreements..... 10

8.3.1 Certification of Completed Training..... 10

8.3.2 Certification of Confidentiality Agreements 10

8.4 Termination for Cause 11

8.5 Records Retention..... 11

8.5.1 Destruction of Personal Information..... 11

8.5.2 Maintenance of Files, Books, Records 11

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 328K, Hawaii Revised Statutes (HRS), 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 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 Modification 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 because of a reduction of 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, or (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.

8. Confidentiality of Personal Information

8.1 Definitions.

8.1.1 Personal Information. "Personal Information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:

- 1) Social Security number;
- 2) Driver's license number or Hawaii identification card number; or
- 3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

8.1.2 Technological Safeguards. "Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

8.2 Confidentiality of Material.

8.2.1 Safeguarding of Material. All material given to or made available to the PROVIDER by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the PROVIDER and shall not be disclosed without the prior written approval of the STATE.

8.2.2 Retention, Use, or Disclosure. PROVIDER agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.

8.2.3 Implementation of Technological Safeguards. PROVIDER agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.

8.2.4 Reporting of Security Breaches. PROVIDER shall report to the STATE in a prompt and complete manner any security breaches involving personal information.

8.2.5 Mitigation of Harmful Effect. PROVIDER agrees to mitigate, to the extent practicable, any harmful effect that is known to PROVIDER because of a use or disclosure of personal information by PROVIDER in violation of the requirements of this paragraph.

8.2.6 Log of Disclosures. PROVIDER shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by PROVIDER on behalf of the STATE.

8.3 Security Awareness Training and Confidentiality Agreements.

8.3.1 Certification of Completed Training. PROVIDER certifies that all of its employees who will have access to the personal information have completed training on security awareness topics related to protecting personal information.

8.3.2 Certification of Confidentiality Agreements. PROVIDER certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:

- 1) The personal information collected, used, or maintained by the PROVIDER will be treated as confidential;
- 2) Access to the personal information will be allowed only as necessary to perform the Contract; and
- 3) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

8.4 Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by PROVIDER of this paragraph by PROVIDER, the STATE may at its sole discretion:

- 1) Provide an opportunity for the PROVIDER to cure the breach or end the violation; or
- 2) Immediately terminate this Contract.

In either instance, the PROVIDER and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

8.5 Records Retention.

8.5.1 Destruction of Personal Information. Upon any termination of this Contract, PROVIDER shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.

8.5.2 Maintenance of Files, Books, Records. The PROVIDER and any subcontractors shall maintain the files, books, and records, that relate to the Contract, including any personal information created or received by the PROVIDER on behalf of the STATE, and any cost or pricing data, for three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall not be disclosed without the prior written approval of the STATE. After the three (3) year retention period has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS.

APPENDIX H – Business Proposal

APPENDIX H

COST PROPOSAL

I, _____ (Name of Official authorized to commit, copy attached) hereby enter the official proposal prices indicated below on behalf _____ (Name of Firm entering proposal), and warrant that all terms and conditions of the RFP for Ombudsman Services for Med-QUEST Division (MQD) Beneficiaries are met.

Payment Schedule

(September 1, 2013 to June 30, 2015)

Cost of Contract SFY2014: _____

Annual Cost of Contract SFY2015: _____

(To be Divided into Twelve Equal Payments to Billed Monthly)

Total Cost of Proposal: _____

Cost justification information as set forth in section 70.200 shall be attached to this section or referenced separately as deemed appropriate by the respondent.

APPENDIX H

Summary of Budget Sheets

SPO-H-205 \$ _____

SPO-H-205A \$ _____

SPO-H-205B \$ _____

SPO-H-206A \$ _____

SPO-H-206B \$ _____

SPO-H-206C \$ _____

SPO-H-206E \$ _____

SPO-H-206F \$ _____

SPO-H-206H \$ _____

SPO-H-206I \$ _____

SPO-H-206J \$ _____

BUDGET

(Period _____ to _____)

Applicant/Provider: _____

RFP No.: _____

Contract No. (As Applicable): _____

BUDGET CATEGORIES	Budget Request (a)	(b)	(c)	(d)
A. PERSONNEL COST				
1. Salaries				
2. Payroll Taxes & Assessments				
3. Fringe Benefits				
TOTAL PERSONNEL COST				
B. OTHER CURRENT EXPENSES				
1. Airfare, Inter-Island				
2. Airfare, Out-of-State				
3. Audit Services				
4. Contractual Services - Administrative				
5. Contractual Services - Subcontracts				
6. Insurance				
7. Lease/Rental of Equipment				
8. Lease/Rental of Motor Vehicle				
9. Lease/Rental of Space				
10. Mileage				
11. Postage, Freight & Delivery				
12. Publication & Printing				
13. Repair & Maintenance				
14. Staff Training				
15. Substance/Per Diem				
16. Supplies				
17. Telecommunication				
18. Transportation				
19. Utilities				
20.				
21.				
22.				
23.				
TOTAL OTHER CURRENT EXPENSES				
C. EQUIPMENT PURCHASES				
D. MOTOR VEHICLE PURCHASES				
TOTAL (A+B+C+D)				
SOURCES OF FUNDING		Budget Prepared By:		
(a) Budget Request		Name (Please type or print)		Phone
(b)		Signature of Authorized Official		Date
(c)		Name and Title (Please type or print)		
(d)		For State Agency Use Only		
TOTAL REVENUE		Signature of Reviewer		Date

ORGANIZATION - WIDE BUDGET BY SOURCE OF FUNDS

(Period _____ to _____)

Applicant/Provider: _____
 RFP No.: _____
 Contract No. (As Applicable): _____

BUDGET CATEGORIES	Total Funds (a)	(b)	(c)	(d)
A. PERSONNEL COST				
1. Salaries				
2. Payroll Taxes & Assessments				
3. Fringe Benefits				
TOTAL PERSONNEL COST				
B. OTHER CURRENT EXPENSES				
1. Airfare, Inter-Island				
2. Airfare, Out-of-State				
3. Audit Services				
4. Contractual Services - Administrative				
5. Contractual Services - Subcontracts				
6. Insurance				
7. Lease/Rental of Equipment				
8. Lease/Rental of Motor Vehicle				
9. Lease/Rental of Space				
10. Mileage				
11. Postage, Freight & Delivery				
12. Publication & Printing				
13. Repair & Maintenance				
14. Staff Training				
15. Substance/Per Diem				
16. Supplies				
17. Telecommunication				
18. Transportation				
19. Utilities				
20.				
21.				
22.				
23.				
TOTAL OTHER CURRENT EXPENSES				
C. EQUIPMENT PURCHASES				
D. MOTOR VEHICLE PURCHASES				
TOTAL (A+B+C+D)				
SOURCES OF FUNDING	(a) Total Funds	Budget Prepared By:		
	(b)	Name (Please type or print)		Phone
	(c)	Signature of Authorized Official		Date
	(d)	Name and Title (Please type or print)		
TOTAL REVENUE	For State Agency Use Only			
	Signature of Reviewer		Date	

ORGANIZATION - WIDE BUDGET BY PROGRAMS

(Period _____ to _____)

Applicant/Provider _____

RFP No. : _____

Contract No. (As Applicable): _____

BUDGET CATEGORIES	(a)	(b)	(c)	(d)
	Contract/RFP#:	Contract/RFP#:	Contract/RFP#:	Contract/RFP#:
	Program:	Program:	Program:	Program:
A. PERSONNEL COST				
1. Salaries				
2. Payroll Taxes & Assessments				
3. Fringe Benefits				
TOTAL PERSONNEL COST				
B. OTHER CURRENT EXPENSES				
1. Airfare, Inter-Island				
2. Airfare, Out-of-State				
3. Audit Services				
4. Contractual Services - Administrative				
5. Contractual Services - Subcontracts				
6. Insurance				
7. Lease/Rental of Equipment				
8. Lease/Rental of Motor Vehicle				
9. Lease/Rental of Space				
10. Mileage				
11. Postage, Freight & Delivery				
12. Publication & Printing				
13. Repair & Maintenance				
14. Staff Training				
15. Substance/Per Diem				
16. Supplies				
17. Telecommunication				
18. Transportation				
19. Utilities				
20.				
21.				
22.				
23.				
TOTAL OTHER CURRENT EXPENSES				
C. EQUIPMENT PURCHASES				
D. MOTOR VEHICLE PURCHASES				
TOTAL (A+B+C+D)				
SOURCES OF FUNDING				
(a) Budget Request				
(b)				
(c)				
(d)				
TOTAL REVENUE				
For State Agency Use Only	Budget Prepared By: _____			
Signature of Reviewer _____	Date _____	Name (Please type or print) _____	Phone _____	Signature of Authorized Official _____
				Date _____

**BUDGET JUSTIFICATION
PERSONNEL - SALARIES AND WAGES**

**BUDGET JUSTIFICATION
PERSONNEL: PAYROLL TAXES, ASSESSMENTS, AND FRINGE BENEFITS**

Applicant/Provider: _____

RFP No.: _____

Period: _____

to _____

Date Prepared: _____

Contract No.: _____
(As Applicable)

TYPE	BASIS OF ASSESSMENTS OR FRINGE BENEFITS	% OF SALARY	TOTAL
PAYROLL TAXES & ASSESSMENTS:			
Social Security	As required by law	As required by law	
Unemployment Insurance (Federal)	As required by law	As required by law	
Unemployment Insurance (State)	As required by law	As required by law	
Worker's Compensation	As required by law	As required by law	
Temporary Disability Insurance	As required by law	As required by law	
SUBTOTAL:			
FRINGE BENEFITS:			
Health Insurance			
Retirement			
SUBTOTAL:			
TOTAL:			
JUSTIFICATION/COMMENTS:			

APPENDIX I – Business Associate Language

APPENDIX I

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 I

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.

APPENDIX I

- 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 I

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 I

- 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.