



STATE OF HAWAII
Department of Human Services

REQUEST FOR PROPOSALS (RFP)

**COMMUNITY CARE SERVICES PROGRAM (CCS)
THAT PROVIDES BEHAVIORAL HEALTH SERVICES
TO MEDICAID ELIGIBLE ADULTS WHO HAVE A
SERIOUS MENTAL ILLNESS (SMI) OR SERIOUS AND
PERSISTENT MENTAL ILLNESS (SPMI)**

RFP-MQD-2018-002

APPENDICES



**Med-QUEST Division
Health Coverage Services Branch**

APPENDIX A – WRITTEN QUESTIONS FORMAT

Appendix A

**Written Questions Format
Community Care Services (CCS) Program RFP**

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

APPENDIX B – NOTICE OF INTENT TO PROPOSE

Notice of Intent to Propose

RFP Number and Title: _____
Organization or Individual: _____

Contact Person Information

First Name: _____ Last Name: _____

E-mail Address: _____

Telephone: _____

Fax Number: _____

Mailing Address

Street Address or PO Box _____

City _____ State _____ Zip Code _____

Please provide to the agency contact person listed in the Request for Proposals (RFP).

APPENDIX C – PROPOSAL DOCUMENTS

- A. Proposal Application Identification form (Form SPO-H-200)**
- B. State of Hawaii DHS Proposal Letter**
- C. Certification for Contracts, Grants, Loans and Cooperative Agreements form**
- D. Disclosure Statement (CMS required) form**
- E. Disclosure Statement**
- F. Disclosure Statement (Ownership) form**
- G. Organization Structure and Financial Planning form**
- H. Financial Planning form**
- I. Controlling Interest form**
- J. Background Check Information form**
- K. Operational Certification Submission form**
- L. Grievance System form**
- M. Insurance requirements certification form;**
- N. Wage Certification form**
- O. Standards of Conduct Declaration form**

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 BHO.

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.

DISCLOSURE STATEMENT

Instructions

DHS is concerned with monitoring the existence of related party transactions in order to determine if any significant conflicts of interest exist in the offeror's ability to meet Behavioral Health objectives. Related party transactions include transactions which are conducted in an arm's length manner or are not reflected *in* the accounting records at all (e.g., the provision of services without charge).

Transactions with related parties maybe in the normal course of business or they may represent something unusual for the offeror. In the normal course of business, there may be numerous routine and recurring transactions with parties that meet the definition of a related party. Although each party may be appropriately pursuing its respective best interests, this is usually not objectively determinable. In addition to transactions in the normal course of business, there may be transactions which are neither routine nor recurring and may be unusual in nature or in financial statement impact.

1) Describe transactions between the offeror 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 in detail noting the dollar amounts or other consideration for each and the date of the transaction(s) including a justification as to the reasonableness of the transaction(s) and its potential adverse impact on the fiscal soundness of the disclosing entity.

a) The sale or exchange, or leasing of any property:

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

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

BHO 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 BHO, 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 Behavioral Health Services.

Date Signed

Chief Executive Officer (Name and Title
Typewritten)

Notarized

Signature

DISCLOSURE STATEMENT OWNERSHIP

BHO Name, BHO No.: _____

Address (City, State, Zip): _____

Telephone: _____

For the period beginning: _____ and ending _____ Type

of BHO:

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

Name/Title	Address

b. Names and titles of the ten (10) highest paid management personnel including but not limited to the Chief Executive Officer, the Chief Financial Officer, Board of Chairman, Board of Secretary, and Board of Treasurer:

Name/Title	Address

c. List names and addresses of creditors whose loans or mortgages exceeding five percent (5) and are secured by the assets of the BHO.

Name	Address	Amount of Debt	Description of Security

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:

<u>Service Component</u>	<u>License/Requirement</u>	<u>Renewal Date</u>
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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, BHO 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:

Financial Planning Form

1) Is the offerors accounting system based on a cash, accrual, or modified method?

- a. Cash []
- b. Accrual []
- c. Modified [] Give brief explanation

2) Does the offeror prepare an annual financial statement?

Yes _____ No _____ If yes, please explain:

3) Are interim financial statements prepared? Yes _____ No _____

a. If yes, how often are they prepared? _____

b. If yes, are footnotes and supplementary schedules an integral part of the statements?
Yes _____ No _____

c. If yes, are actuals analyzed and compared to budgeted amounts?
Yes _____ No _____

d. If yes, provide a copy of the latest statements including all necessary data to support your answers in (a) through (c) above.

4) Is the offeror audited by an independent accounting firm/accountant?

Yes _____ No _____

a. If yes, how often are audits conducted? _____

b. By whom are they conducted? _____

c. Did this auditor perform that offeror's last audit?
Yes _____ No _____

If no, provide the name, address, and telephone number of the firm that performed the offeror's last audit.

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, judgements, 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 Account #	Date of Birth (Da/Mo/Yr)	Place of birth City/County/State
	Yes	No			

* 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

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 OHS 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 OHS and deficiencies are subject to sanction in accordance with OHS 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. Excl):	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 SUBR INSR (NO)	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	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"/> PROJ <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 - COM/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 <input type="checkbox"/> OCCUR <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> CLAIMS-MADE RETENTION \$	13				EACH OCCURRENCE \$ AGGREGATE \$ (10)
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A	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 (14)	CANCELLATION
	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 D – CCS REFERRAL FORM AND INSTRUCTIONS

REFERRAL FOR SERIOUS MENTAL ILLNESS (SMI) COMMUNITY CARE SERVICES (CCS) PROGRAM

CLIENT NAME _____ MALE FEMALE
Last First M.I.

HOME ADDRESS _____ PHONE NO. _____
 _____ CASE NO. _____

MAILING ADDRESS _____ CLIENT ID NO. _____
 _____ SOCIAL SECURITY NUMBER _____

DATE OF BIRTH _____ AGE _____ COUNTY OAHU HAWAII MAUI KAUAI

HEALTH PLAN: UNITED HEALTHCARE OHANA ALOHA CARE HMSA KAISER FOUNDATION

PRIMARY DIAGNOSIS _____ DSMIV CODE _____

SECONDARY DIAGNOSIS _____ DSMIV CODE _____

CURRENT MEDICAL CONDITIONS (Indicate, if none) _____

DATE OF REFERRAL: _____ NAME OF PCP: _____ PCP NOTIFIED: Y / N

HOSPITALIZATIONS	CURRENTLY AT: <input type="checkbox"/> Castle <input type="checkbox"/> Queen's <input type="checkbox"/> Other: _____ (list) Admitted on ____/____/____			
Past Hospitalizations- Facility	Location	Date Admitted	Date Discharged	Diagnosis
MEDICATIONS	Strength	Dosage	Start Date	End Date
OUTPATIENT THERAPISTS	Diagnosis		Start Date	End Date

Section below to be completed by MQD/CSO Evaluation Panel

Date of Evaluation _____ Date of Enrollment/Disenrollment of CCS Services _____

Approved for CCS Referral: Yes No Additional Information Needed

Re-Evaluation Required: Yes No If Yes, date to be re-evaluated: ____/____/____

Reason for denial/comments _____

Signature: _____

FOR ADULTS ONLY

Client Name: _____

Client I.D. No.: _____

I. MENTAL STATES

A. General:

1. Appearance: Within Normal Limits Other _____
2. Dress: Appropriate Bizarre Clean Dirty
3. Grooming: Neat Disheveled Needs improvement

B. Behavior:

1. Eye Contact: Good Fair Poor
2. Posture: Good Slumped Rigid Other _____
3. Body Movements: None Involuntary Akathisia Other _____

- C. Speech:** Clear Mumbled Rapid Whispers Monotone
Slurred Slow Loud Constant Mute
Other _____

- D. Mood:** Anxious Fearful Friendly Euphoric Calm
Aggressive Hostile Depressed
Other _____

- E. Affect:** Full range Flat Constricted Inappropriate
Other _____

F. Thought:

1. Process or Form: Loose associations Poverty of content Flight of ideas
Neologism Perseveration Blocking
2. Content: Delusions Thought broadcasting
Thought insertion Thought withdrawal Other _____

G. Perception – Hallucinations:

- Auditory Tactile Somatic Other _____

H. Reality Orientation:

1. Mark all areas which the recipient can name:
Time: Day Month Year
Place: (can describe location) Yes No
Person: Self Family or friend
2. Memory: Recent intact? Yes Remote intact: Yes
No No

- I. Insight:** Aware of illness Denies illness Other _____

- J. Judgment:** Good Fair Poor

FOR ADULTS ONLY

Client Name: _____ Client I.D. No.: _____

II. FUNCTIONAL SCALES: (Check and specify any problem(s) in the following areas)

Medical/Physical

Family/Living

Interpersonal Relations

Role Performance

Socio-Legal

Self-Care/Basic Needs

III. SUPPORTING DOCUMENTATION: Please supply additional comprehensive information and assessments (if available) which would be of assistance in the evaluation of the criteria for eligibility.

Signed: _____ Date: _____

Reporting Psychiatrist/Psychologist (*Print Name*): _____

Reporting Psychiatrist/Psychologist Phone No.: _____

Signed: _____ Date: _____

Medical Director or Attending Physician for in-patients (*Print Name*): _____

INSTRUCTIONS
DHS 1157 (Rev. 04/14)

**REFERRAL FOR SERIOUS MENTAL ILLNESS (SMI) COMMUNITY CARE SERVICES (CCS)
PROGRAM**

PURPOSE:

The DHS 1157, Referral for Serious Mental Illness (SMI) to the Community Care Services (CCS) Program, shall be initiated by the health plan or hospital when there is reason to believe that an applicant/beneficiary of medical assistance may meet the definition of SMI and would meet the criteria to receive services from CCS.

GENERAL INSTRUCTIONS:

The applicant/beneficiary's provider, with review and concurrence by the health plan medical director or attending physician, shall complete this form to refer an applicant/beneficiary for consideration for the CCS program and submit it along with pertinent medical records to the Med- QUEST Division/Clinical Standards Office (MQD/CSO). The MQD/CSO evaluation panel will complete the Section to be completed by MQD/CSO Evaluation Panel and make a determination for CCS referral based on the information provided in the Referral for SMI CCS packet.

SPECIFIC INSTRUCTIONS:

The DHS 1157 should be completed by the applicant/beneficiary's provider, with review and concurrence by the health plan medical director or attending physician.

The DHS 1157 page 1, the Mental States page 2, and the Functional Scales page 3, should be signed by the applicant/beneficiary's treating psychiatrist or psychologist. If the applicant/beneficiary does not have a treating psychiatrist or psychologist, then the treating medical provider for the applicant/beneficiary may sign where indicated on the form. Signature also required indicating review and concurrence by the health plan medical director or behavioral health specialist

Page 1:

Section A: To Be Completed By the Health Plan Medical Director or Attending Physician

1. Furnish the following identifying data: the applicant/beneficiary's name, gender, home address, mailing address, date of birth, age, phone number, DHS case No., client ID No., Social Security number, county and health plan.
2. Indicate the primary and secondary diagnosis along with any current medical conditions and DSMIV code. Qualifying diagnosis need to be present for over 12 months or expected to continue for 12 months.
3. Complete date of referral, name of primary care provider (PCP) and identify whether or not the PCP was informed of the referral.
4. Applicant/beneficiary is to initial acknowledgement of the statement to comply with the CCS program directions and understand that current provider(s) may change.
5. Applicant/beneficiary signature is required for the process to move forward.
6. **Hospitalizations:**
Identify if the applicant/beneficiary is currently hospitalized and indicate the location. List all other hospitalizations by facility, location, date admitted, date discharged and diagnosis. Attach an extra sheet if more space is needed.

7. **Medications:**
List the routine psychiatric medications, as well as frequently used prn psychiatric medications identifying the medication strength, dosage, start date and end date

Outpatient therapists:

Provide a list of current and past mental health therapists, diagnosis, start and end dates of treatment. Attach an extra sheet if more space is needed.

Section B: To Be Completed By MQD/CSO Evaluation Panel

MQD medical director or behavioral health consultants will complete and sign this section indicating:

1. The date the Referral for CCS is evaluated;
2. If approved for CCS referral, the date of enrollment is indicated in this section and will be five business days after the date the CCS referral is approved.
3. Whether the applicant/beneficiary is approved for CCS referral or if additional information is needed;
4. Whether re-evaluation is required, if yes, date to be re-evaluated;
5. Reason for denial and any other comments.

Page 2

Section C: To Be Completed By the Health Plan Medical Director or Attending Physician

- I. MENTAL STATES - Self-explanatory.

Page 3

- II. FUNCTIONAL SCALES - Self-explanatory.

Section D: To Be Completed By the Health Plan Medical Director or Attending Physician

- III. SUPPORTING DOCUMENTATION – Provide additional comprehensive information and assessments to assist in the evaluation of the criteria for CCS eligibility.

ELIGIBILITY CRITERIA

The beneficiary is eligible for CCS referral if A through E can be answered “Yes.”

The applicant/beneficiary:

1. Is 18 years of age or older and is Medicaid eligible.
2. Is NOT successfully engaged in existing case management services, including AMHD Case management services.
3. Have been diagnosed as having one of the qualifying diagnoses (see attached).
4. Demonstrates the presence of the qualifying diagnosis for the last 12 months or is expected to demonstrate the qualifying diagnosis for the next 12 months.
5. Meets at least one of the criteria below that demonstrates instability and/or functional impairment:
 - a. Clinical records demonstrate that the beneficiary is currently unstable under

current treatment and plan of care (e.g. multiple hospitalizations in the last year and currently unstable, substantial history of crises and currently unstable, consistently noncompliant with meds and follow-up, unengaged with providers, significant and consistent isolation, at risk for hospitalization, resource deficit causing instability).

- b. The applicant/beneficiary's GAF scores, supported by submitted clinical records, currently is and have been consistently less than 50 over the past 6 months.
- c. The applicant/beneficiary is under Adult Protective Services (APS) or requires intervention by housing or law enforcement officials. Supporting documentation exists in the medical record, such as a letter from APS or housing official.

If the referral to CCS does not provide sufficient information under A through E to make a determination, the referral will be sent back for more information, or the health plan or hospital will be contacted to provide additional information.

Upon Referral to CCS by the MQD, the applicant/beneficiary will be assessed by CCS. If the applicant/beneficiary does not meet or no longer meets the criteria for CCS admission, based on the initial evaluation, CCS will complete the DHS 1157 to indicate the reason for applicant/beneficiary not being recommended for either continued services or disenrollment from CCS. MQD will return the beneficiary referral back to the referring health plan or if applicant/beneficiary is still hospitalized, to the hospital.

Provisional Referral to CCS is made for individuals whose qualifying condition or duration of illness is uncertain because of co-existing substance abuse or medical condition. The criteria above should still be met. CCS will be made aware of the provisional status of the referral and the applicant/beneficiary must be re-evaluated by MQD using the DHS 1157 and reassessment completed by CCS at the timeframe indicated on the initial DHS 1157.

FILING INSTRUCTIONS:

In order for MQD CSO to perform an evaluation and determination, the supporting documentation must be adequate and complete. The following requirements must be included as part of the SMI CCS packet:

1. DHS 1157 'Referral for Serious Mental Illness (SMI) CCS Program page 1, page 2 "Mental States" and page 3 "Functional Scales";
2. Clinical notes within the past year outlining current plan of care and treatment;
3. Hospital admission and discharge notes within the past year, if applicable;
4. Psychiatric and/or psychosocial assessment within the past year; and
5. Global Assessment of Functioning (GAF) scores within the last six months, and highest within the last year, supported by clinical documentation.

The DHS 1157 form and supporting documentation may be faxed or mailed to the applicant's health plan for referral to the CCS Program with the exception of those providers who are allowed to fax directly to MQD at 808-692-8131

APPENDIX E - GENERAL CONDITIONS

**GENERAL CONDITIONS FOR HEALTH & HUMAN SERVICES CONTRACTS
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GENERAL CONDITIONS FOR HEALTH & HUMAN SERVICES CONTRACTS

1. Representations and Conditions Precedent

1.1 Contract Subject to the Availability of State and Federal Funds.

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

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

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

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

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

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

1.3.1 Smoking Policy. The PROVIDER shall implement and maintain a written smoking policy as required by Chapter 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 F – PROVIDER LETTER OF INTENT

APPENDIX F

Provider Letter of Intent

**SAMPLE LETTER OF INTENT (LOI) TO ENTER INTO CONTRACT NEGOTIATIONS
WITH
[the offeror]
FOR PROVISION OF BEHAVIORAL HEALTH SERVICES TO CCS MEMBERS**

This letter is subject to verification by the Hawaii Department of Human Services (DHS). A provider should not sign this LOI unless he or she intends to enter into contract negotiations with [offeror's name] for the provision of behavioral health services to Community Care Services (CCS) members. Signing this LOI does not obligate the provider to sign a contract with [offeror's name] for the provision of behavioral health services to CCS members.

[Offeror's name] is proposing to participate in the CCS program. The provider signing below is willing to enter into contract negotiations with [offeror's name], for the provision of behavioral health services to CCS members enrolled with [offeror's name] as indicated below.

This provider intends to sign a contract with [offeror's name] if [offeror's name] is awarded the CCS contract **and** an acceptable agreement can be reached between the provider and [offeror's name].

NOTICE TO PROVIDERS:

This LOI will be used by the DHS in its bid evaluation and contract award process for the CCS RFP. You should only sign this LOI if you intend to enter into contract negotiations with (offeror's name) should they receive a contract award. If you are signing on behalf of a physician, please provide evidence of your authority to do so.

Do not return completed LOI to the DHS. Completed LOI needs to be returned to [offeror's name and address.]

1. PROVIDER'S SIGNATURE

2. DATE

3. PRINTED NAME OF SIGNER

4. TITLE OF SIGNER

5. PRINTED NAME OF PROVIDER (IF DIFFERENT FROM SIGNER)

6. OFFEROR REPRESENTATIVE'S SIGNATURE

7. DATE

8. PRINTED NAME OF SIGNER

9. TITLE OF SIGNER

**ADDITIONAL PROVIDER AND SERVICES INFORMATION FOR LOI
BETWEEN PROVIDERS AND OFFERORS
FOR PROVISION OF SERVICES TO CCS MEMBERS**

1. MQD PROVIDER IDENTIFICATION NUMBER, if any

2. PROVIDER'S PRINTED NAME

3. ADDRESS (where services will be provided)

If services will be provided in more than one location,
attach separate sheet with addresses.

4. ZIP CODE

5. COUNTY

6. TELEPHONE

7. FAX

Check here if additional service site information is
attached.

8. PROVIDER TYPE (e.g., behavioral health provider,
case management agency, inpatient behavioral health
hospital, outpatient behavioral health hospital, mental
health rehabilitation, psychosocial rehabilitation,
pharmacy, laboratory, crisis service, etc.)

9. SERVICE(S) TO BE PROVIDED TO CCS MEMBERS

10. AREAS OF PROVIDER SPECIALTY, IF ANY

11. LANGUAGES SPOKEN BY THE PROVIDER (OTHER
THAN ENGLISH)

12. NAME OF HOSPITAL(S) WHERE PHYSICIAN HAS
ADMITTING PRIVILEGES

APPENDIX G – PROVIDER LISTING

Appendix G

Provider Listing

for Section 70.810

Provider Type (examples listed below)	Island/County (for Oahu include the city)	Provider Name (Last name, First name, Middle Initial)	Address	City	Zip Code	Accepting new members (Y/N)?	Any limit on CCS members (Y/N)?
Behavioral Health Specialist	Honolulu, Oahu	Last Name, First Name, MI					
Case Management	Kapolei, Oahu	Last Name, First Name, MI					
Inpatient behavioral health hospital	Maui County	Last Name, First Name, MI					
Hospital	Kauai	Hospital Name					
Crisis Services: mobile crisis response	Hawaii- East	Agency Name					

APPENDIX H – RISK SHARE PROGRAM

RISK SHARE PROGRAM

Objective of the Program: The State acknowledges that due to circumstances beyond the control of the BHO and the State, the established capitation rates may not be appropriate for the services to be provided. Even with utilization data and experience serving the behavioral health population, it is difficult for the BHO and the State to accurately predict the actual performance or utilization of services by the enrolled population. It is possible that individuals will utilize more services than estimated. Conversely, it is also possible that individuals will utilize substantially less services than estimated.

To address the unknown risk to the BHO and the State, the DHS will implement a risk share program. The risk share program will be applied when there is an overall impact on the program such that there is a significant differential between the Total Revenue (as defined below) received by the BHO for behavioral health services, and the expenses of the BHO.

Definitions:

Total Revenue is the sum of all capitation payments made to the BHO during the fiscal year ended June 30. The behavioral health services portion is equal to Total Revenue net of the case management/administration component as well as excluding general excise and insurance premium tax, if applicable. The case management/administration component has been set for fiscal year 2019 at \$382.50 per member per month.

The behavioral health services expenses shall be taken from the financial reports provided by the health plans for the year ended June 30. These expenses do not include costs for case management and administration for purposes of this calculation. DHS recognizes that the financial reports are due within 45 days from the end of the reporting period and that some data may not be available at the time the reports are submitted. Therefore, prior to compiling the statement for the gain share program, the plans shall be requested to update their prior year's report for any adjustments. The report shall be due to the DHS by January 15. DHS would like case management and administration costs separated in the financial statements. DHS also requires that the BHO be prepared to provide the underlying claim data supporting the financials upon request.

Conceptual Framework: Under the risk share program, the DHS will share in a significant difference between the Total Revenue and the actual costs experienced by the BHO. Six (6) months following the end of the fiscal year using the financial reports provided by the BHO, a simple profit and loss statement will be developed for the behavioral health services portion of the CCS program. The behavioral health services portion of the Total Revenue is assumed to be Total Revenue net of the case management/administration component multiplied by the number of member months during the calendar year. Actual administrative expenses will not be included in the computation since the intent of the program is to adjust for unknown risk associated with providing the health services to the enrolled population.

Following the computation of the aggregate profit and loss statement, a net loss or gain percentage will be computed based upon the Total Revenue paid to the BHO for provision of behavioral health services. If the loss percentage is within a 5% risk corridor, there will be no loss sharing between the DHS and the BHO and the BHO will absorb all of the loss. If the aggregate loss is outside of this risk corridor, the DHS will share equally in the loss exceeding the risk corridor with a maximum amount DHS will pay of \$1,250,000.

If there is a gain exceeding 3%, the DHS will share equally in the gain between 3% and 5%. The DHS will recover all gains exceeding 5%.

The individual amounts to be remitted to the BHO or to the State will be distributed based on eligible months. The following formula will be used to determine the gain/loss:

Σ Behavioral health services portion of Total Revenue

Less: Σ Net behavioral health expenses (based on the actual incurred expenses for behavioral health services)

Equals: Net profit/loss (for the behavioral health services provided to the CCS population)

The net profit/loss divided by the Behavioral Health Services portion of Total Revenue will provide the percentage of the profit/loss which will be compared to the risk corridor established by the DHS.

APPENDIX H

Examples: The following examples illustrate how the Risk Share Program would be applied. A negative settlement represents additional payment from DHS to the BHO. Note the examples below assume no general excise or insurance premium tax.

Risk Share Program Settlement Examples

	Total Revenue	Member Months	Net		Profit/Loss		Settlement
			Behavioral Health Revenue	Behavioral Health Expenses	Percentage	Amount	
Example 1	\$8,924,829	9,820	\$5,168,649	\$5,013,590	3%	\$155,059	\$0
Example 2	\$8,924,829	9,820	\$5,168,649	\$4,910,217	5%	\$258,432	\$51,686
Example 3	\$8,924,829	9,820	\$5,168,649	\$4,806,844	7%	\$361,805	\$155,059
Example 4	\$8,924,829	9,820	\$5,168,649	\$5,427,082	-5%	(\$258,432)	\$0.00
Example 5	\$8,924,829	9,820	\$5,168,649	\$5,685,514	-10%	(\$516,865)	(\$129,216)
Example 6	\$8,924,829	9,820	\$5,168,649	\$7,752,974	-50%	(\$2,584,325)	(\$1,162,946)
Example 7	\$8,924,829	9,820	\$5,168,649	\$9,045,136	-75%	(\$3,359,622)	(\$1,250,000)

APPENDIX I – FINANCIAL PAYER RESPONSIBILITY GUIDELINES

Appendix I

Financial Payer Responsibility Guidelines

Financial Responsibility Outline

(Outline of payer responsibility determinations for QI/CCS members.)

The purpose of Financial Payer Responsibility Guidelines is to clarify that the QI plan will pay for everything they would usually pay for, not including Behavioral Health (BH) services, to be paid for by the CCS plan, even though both may occur in the same admission. As it is too difficult for the hospitals to divide out the billing by service, the payment will be determined by per diems with primary diagnosis and provided service being the triggers for determination of responsibility.

1. Members who are admitted as inpatients
 - a. For a medical reason such as OD, MI, pneumonia, sepsis, etc.
 - i. QI: pays all days until discharge (assume member on MS floor entire stay)
 - b. For a BH reason such as suicidal ideation, etc. (assume member on Psych floor entire stay)
 - i. CCS: pays entire stay
 - c. Who came in for medical but then are "cleared" after appropriate care and still require psychiatric treatment
 - i. QI: pays all days on medical floor up to day of transfer
 - ii. CCS: pays all days after transfer to psych floor
 - d. Who, once on a psych floor are determined to require general acute medical care and are transferred to the medical floor
 - i. QI: pays for stay except for days when the medical problem was resolved.
 - ii. CCS: does not pay for less than one day on psych floor if the patient was transferred back to medical floor on that same day.
 - e. For member who came in for obstetrical care and required concurrent psychiatric help while actively in labor
 - i. QI: pays for all days when obstetrical care was delivered
 - f. Who is admitted for a psychiatric diagnosis and needs short term medical intervention
 - i. If stay includes surgery, then paid by QI plan for those days
 - ii. If stay requires all day procedure, then paid by QI plan for that day
 - g. Who required a sitter while inpatient for a primary medical diagnosis
 - i. QI: pays for all days
 - h. Who is admitted for a psychiatric diagnosis but, found to have active TB or a severe case of scabies or perhaps MRSA. Hospital infection control department may have a

policy that they can only be admitted to a med-surgery floor with isolation. The disease is not considered an acute condition.

- i. CCS: pays for all days

2. Members who are treated by **outpatient** providers

- a. For CCS members seeing a non-BH provider for a primary medical diagnosis
 - i. QI plan pays
- b. For CCS members seeing a BH provider for a primary psychiatric diagnosis (of any type)
 - i. CCS plan pays
- c. For CCS members seeing a non-BH provider for a primary psychiatric diagnosis
 - i. CCS plan pays
- d. For CCS members seeing a BH provider for a primary medical diagnosis
 - i. QI plan pays

CCS vs. QI PAYMENT RESPONSIBILITY

IP Facility:

- If only billing BH rev codes, then CCS pays all.
- If only billing medical rev codes with primary admitting dx of HB, then CCS pays all.
- If only billing medical rev codes with primary admitting dx of BH, but primary dx is medical, then QI pays all (i.e., metastatic cancer discovery).
- If only billing medical rev codes with primary admitting dx of medical, QI pays all.
- If both BH and medical rev codes, but discharge dx is BH, then CCS pays. (overflow from Kekela)
- If both BH and medical rev codes, then BH rev codes, then CCS should pay. QI pays for all other rev codes. Bill is split by day proportional.

OP Facility:

- Based on ordering MD's specialty, either CCS or QI.

Professional:

- Based on specialty, either CCS or QI.

APPENDIX J – BUSINESS ASSOCIATE AGREEMENT

APPENDIX J BUSINESS ASSOCIATE AGREEMENT

The State of Hawaii Department of Human Services (STATE) has determined that it is a Covered Entity or a Health Care Component of a Covered Entity under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), as amended, and its implementing regulations at 45 CFR parts 160 and 164 (the HIPAA Rules).

The CONTRACTOR/PROVIDER (BUSINESS ASSOCIATE), under the CONTRACT will provide to STATE certain services described in the CONTRACT to which this Exhibit I is attached, and may have access to Protected Health Information (PHI) (as defined below) in fulfilling its responsibilities under the CONTRACT. To the extent BUSINESS ASSOCIATE needs to create, receive, maintain or transmit PHI to perform services under the CONTRACT, it will be acting as a Business Associate¹ of STATE and will be subject to the HIPAA Rules and the terms of this Business Associate Agreement (this Agreement).

In consideration of STATE's and BUSINESS ASSOCIATE's (collectively referred to as "the Parties") continuing obligations under the CONTRACT, and the provisions below, the Parties agree as follows:

1. DEFINITIONS.

Except for terms otherwise defined herein, and unless the context indicates otherwise, any capitalized terms used in this Agreement and the terms "person," "use," and "disclosure" shall have the same meaning as defined by the HIPAA Rules. An amendment to the HIPAA Rules that modifies any defined term, or which alters the regulatory citation for the definition, shall only be incorporated into this Agreement by written ratification of the Parties.

Breach² means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule or as provided for by this Agreement, which compromises the security or privacy of the PHI.

An acquisition, access, use, or disclosure of PHI in a manner not permitted by the Privacy Rule is presumed to be a breach unless the BUSINESS ASSOCIATE demonstrates to the STATE's satisfaction that there is a low probability that the PHI has been compromised based on a risk assessment that identifies at least the following: (i) the nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification; (ii) the unauthorized person who used the PHI or to whom the disclosure was made; (iii) whether the PHI was actually acquired or viewed; and (iv) the extent to which the risk to the PHI has been mitigated.

¹ Business Associate is defined at 45 CFR §160.103

² Breach: 45 CFR §164.402.

Breach excludes:

- A. Any unintentional acquisition, access or use of PHI by a Workforce member or person acting under the authority of the BUSINESS ASSOCIATE if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.
- B. Any inadvertent disclosure by a person who is authorized to access PHI at the BUSINESS ASSOCIATE to another person authorized to access PHI at the same BUSINESS ASSOCIATE, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the Privacy Rule.
- C. A disclosure of PHI where the BUSINESS ASSOCIATE has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

Designated Record Set means records, including but not limited to PHI maintained, collected, used, or disseminated by or for the STATE relating to (i) medical and billing records about Individuals maintained by or for a covered Health Care Provider, (ii) enrollment, Payment, claims adjudication, and case or medical management records systems maintained by or for a Health Plan, or (iii) that are used in whole or in part by the STATE to make decisions about Individuals.³

Electronic Protected Health Information (EPHI) means PHI that is transmitted by Electronic Media or maintained in Electronic Media.⁴

HIPAA Rules shall mean the Privacy, Security, Breach Notification, and Enforcement Rules in 45 CFR Parts 160 and 164.

Individual shall have the same meaning as defined in 45 CFR §160.103, and shall include a person who qualifies as a personal representative as provided by 45 CFR §164.502(g).

Privacy Rule means the HIPAA Standards for Privacy of Individually Identifiable Health Information found at 45 CFR part 160, and part 164, subparts A and E.

Protected Health Information (PHI) means any oral, paper or electronic information, data, documentation, and materials, including, but not limited to, demographic, medical, genetic, and financial information that is created or received by a Health Care Provider, Health Plan, Employer, or Health Care Clearinghouse, and 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

³ Designated Record Set: 45 CFR §164.501.

⁴ Electronic Protected Health Information: 45 CFR §160.103

Protected Health Information is limited to the information created, maintained, received, or transmitted by BUSINESS ASSOCIATE on behalf of or from the STATE under the CONTRACT. Protected Health Information includes without limitation EPHI, and excludes education records under 20 U.S.C. §1232(g), employment records held by the STATE as an employer, and records regarding an Individual who has been deceased for more than 50 years.⁵

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 under 45 CFR §164.304.

Security Rule means the HIPAA Security Standards for the Protection of Electronic Protected Health Information found at 45 CFR part 160, and part 164, subpart C.

Unsecured Protected Health Information means protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2) of Public Law 111-5.⁶

2. BUSINESS ASSOCIATE'S OBLIGATIONS.

BUSINESS ASSOCIATE agrees to:

- a. Not use or disclose PHI other than as permitted or required by this Agreement or as Required by Law. In no event may BUSINESS ASSOCIATE use or further disclose PHI in a manner that would violate the Privacy Rule if done by the STATE, except as expressly provided in this Agreement and as required by 45 CFR §§ 164.502(a)(3), 164.502(a)(4) and 164.504(e)(2)(ii)(A).
- b. Implement appropriate safeguards, and comply, where applicable, with the Security Rule to ensure the confidentiality, integrity, and availability of all EPHI the BUSINESS ASSOCIATE creates, receives, maintains, or transmits on behalf of the STATE; protect against any reasonably anticipated threats or hazards to the security or integrity of such information; prevent uses or disclosures of such information other than as provided for by this Agreement or as Required by Law; and ensure compliance with the HIPAA Rules by BUSINESS ASSOCIATE's Workforce.⁷ These safeguards include, but are not limited to:
 - (i) Administrative Safeguards. BUSINESS ASSOCIATE shall implement policies and procedures to prevent, detect, contain, and correct security violations, and reasonably preserve and protect the confidentiality, integrity

⁵ Protected Health Information: 45 CFR §160.103

⁶ 45 CFR §164.402.

⁷ 45 CFR §164.306(a)

and availability of EPHI, and enforce those policies and procedures, including sanctions for anyone not found in compliance;

- (ii) Physical Safeguards. BUSINESS ASSOCIATE shall implement appropriate physical safeguards to protect PHI, including, but not limited to, facility access, facility security, workstation use, workstation security, device and media controls, and disposal;⁸
 - (iii) Technical Safeguards. BUSINESS ASSOCIATE shall implement appropriate technical safeguards to protect PHI, including, but not limited to, access controls, authentication, and transmission security;⁹ and
 - (iv) Security Awareness and Training. BUSINESS ASSOCIATE shall provide training to relevant workforce members, including management, on how to prevent the improper access, use, or disclosure of PHI; and update and repeat training on a regular basis.¹⁰
- c. In accordance with 45 CFR §164.316, document the required policies and procedures and keep them current, and cooperate in good faith in response to any reasonable requests from STATE to discuss, review, inspect, and/or audit BUSINESS ASSOCIATE's safeguards. BUSINESS ASSOCIATE shall retain the documentation required for six (6) years from the date of its creation or the date when it last was in effect, whichever is later.¹¹
 - d. Comply with the provisions found in 45 CFR §164.308 (a)(1) (ii)(A) and (B), requiring BUSINESS ASSOCIATE to conduct an accurate and thorough *risk analysis*, and to periodically update the risk analysis (no less than once every 3 years); and to implement *risk management* measures to reduce the risk and vulnerabilities to a reasonable and appropriate level to comply with 45 CFR §164.306(a).
 - e. As applicable only to the PHI BUSINESS ASSOCIATE receives from STATE, BUSINESS ASSOCIATE shall ensure that any subcontractor of BUSINESS ASSOCIATE that creates, receives, maintains, or transmits PHI on behalf of BUSINESS ASSOCIATE agrees in writing to the same restrictions, conditions, and requirements that apply to BUSINESS ASSOCIATE through this Agreement with respect to such PHI.¹²
 - f. Notify the STATE following discovery of any use or disclosure of PHI not permitted by this Agreement of which it becomes aware, or any Breach of Unsecured PHI.¹³

⁸ 45 CFR §164.310

⁹ 45 CFR §§ 164.310, 164.312

¹⁰ 45 CFR §164.308(a)(5)

¹¹ 45 CFR §§164.306 – 164.316; 164.504(e)(2)(ii)(B)

¹² 45 CFR §§164.308(b), 164.314(a)(2), 164.502(e), 164.504(e)(2)(ii)(D)

¹³ 45 CFR §§164.314(a)(2), 164.410(a), 164.504(e)(2)(ii)(C)

- (i) BUSINESS ASSOCIATE shall immediately notify the STATE's HIPAA Privacy or Security Officer verbally.
 - (ii) BUSINESS ASSOCIATE shall subsequently notify the STATE's HIPAA Privacy or Security Officer in writing, without unreasonable delay, and in no case later than two (2) business days following discovery of the impermissible use or disclosure of PHI, or Breach of Unsecured PHI.
 - (iii) A Breach of Unsecured PHI shall be treated as discovered by the BUSINESS ASSOCIATE as of the first day on which such breach is known to the BUSINESS ASSOCIATE or, by exercising reasonable diligence, would have been known to the BUSINESS ASSOCIATE. BUSINESS ASSOCIATE shall be deemed to have knowledge of a Breach if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of the BUSINESS ASSOCIATE.¹⁴
- g. Take prompt corrective action to mitigate, to the extent practicable, any harmful effect that is known to BUSINESS ASSOCIATE of a Security Incident or a misuse or unauthorized disclosure of PHI by BUSINESS ASSOCIATE in violation of this Agreement, and any other action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. BUSINESS ASSOCIATE shall reasonably cooperate with the STATE's efforts to seek appropriate injunctive relief or otherwise prevent or curtail potential or actual Breaches, or to recover its PHI, including complying with a reasonable corrective action plan.¹⁵
- h. Investigate such Breach and provide a written report of the investigation and resultant mitigation to STATE's HIPAA Privacy and/or Security Officer within thirty (30) calendar days of the discovery of the Breach.
- i. Provide the following information with respect to a Breach of Unsecured PHI, to the extent possible, as the information becomes available, to the STATE's HIPAA Privacy or Security Officer:
- (i) The identification of each Individual whose Unsecured PHI has been, or is reasonably believed by BUSINESS ASSOCIATE to have been accessed, acquired, used, or disclosed during the breach; and
 - (ii) Any other available information that the STATE is required to include in notification to the Individual under the HIPAA Rules, including, but not limited to the following:¹⁶

¹⁴ 45 CFR §164.410(a)(2)

¹⁵ 45 CFR §§164.308(a)(6)(ii); 164.530(f)

¹⁶ 45 CFR §§164.404(c)(1), 164.408, 164.410(c)(1) and (2)

- A. Contact information for Individuals who were or who may have been impacted by the HIPAA Breach (e.g., first and last name, mailing address, street address, phone number, and email address);
 - B. A brief description of the circumstances of the Breach, including the date of the Breach and date of discovery, if known;
 - C. A description of the types of Unsecured PHI involved in the Breach (such as whether the full name, social security number, date of birth, address, account number, diagnosis, disability and/or billing codes, or similar information was involved);
 - D. A brief description of what the BUSINESS ASSOCIATE has done or is doing to investigate the Breach, mitigate harm to the Individual(s) impacted by the Breach, and protect against future Breaches; and
 - E. Contact information for BUSINESS ASSOCIATE's liaison responsible for investigating the Breach and communicating information relating to the Breach to the STATE.
- j. Promptly report to STATE's HIPAA Privacy and/or Security Officer any Security Incident of which BUSINESS ASSOCIATE becomes aware with respect to EPHI that is in the custody of BUSINESS ASSOCIATE, including breaches of Unsecured PHI as required by 45 CFR §164.410, by contacting the STATE's HIPAA Privacy and/or Security Officer.¹⁷
 - k. Implement reasonable and appropriate measures, including training, to ensure compliance with the requirements of this Agreement by Workforce members 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 Workforce members who intentionally violate any provisions of these special conditions, which may include termination of employment.¹⁸
 - l. Make its internal policies, procedures, books, and records relating to the use and disclosure of PHI received from or created or received by BUSINESS ASSOCIATE on behalf of the STATE available to the Secretary of Health and Human Services or to STATE if necessary or required to assess BUSINESS ASSOCIATE's or the STATE's compliance with the HIPAA Rules. BUSINESS ASSOCIATE shall promptly notify STATE of communications with the U.S. Department of Health and Human Services (HHS) regarding PHI provided by or created by STATE and shall provide STATE with copies of any information BUSINESS ASSOCIATE has made available to HHS under this paragraph.¹⁹

¹⁷ 45 CFR §§164.314(a)(2), 164.410

¹⁸ 45 CFR §§164.308(a), 164.530(b) and (e)

¹⁹ 45 CFR §164.504(e)(2)(ii)(I)

- m. Upon notice from STATE, accommodate any restriction to the use or disclosure of PHI and any request for confidential communications to which STATE has agreed in accordance with the Privacy Rule.²⁰
- n. Make available PHI held by BUSINESS ASSOCIATE, which the STATE has determined to be part of its Designated Record Set, to the STATE as necessary to satisfy the STATE's obligations to provide an Individual with access to their PHI under 45 CFR §164.524, in the time and manner designated by the STATE.²¹
- o. Make available PHI held by BUSINESS ASSOCIATE, which the STATE has determined to be part of its Designated Record Set, for amendment, and incorporate any amendments to PHI that the STATE directs or agrees to in accordance with 45 CFR §164.526, upon request of the STATE or an Individual, subject to State law and BUSINESS ASSOCIATE policies regarding amending vital records.
- p. Document disclosures of PHI made by BUSINESS ASSOCIATE, which are required to be accounted for under 45 CFR §164.528(a)(1), and make this information available as necessary to satisfy the STATE's obligation to provide an accounting of disclosures to an Individual within two (2) business days notice by the STATE of a request by an Individual of a request for an accounting of disclosures of PHI. If an Individual directly requests an accounting of disclosures of PHI from BUSINESS ASSOCIATE, BUSINESS ASSOCIATE shall notify STATE's HIPAA Privacy and/or Security Officer of the request within two (2) business days, and STATE shall either direct BUSINESS ASSOCIATE to provide the information directly to the Individual, or it shall direct that the information required for the accounting be forwarded to STATE for compilation and distribution to the Individual.²²
- q. Comply with any other requirements of the HIPAA Rules not expressly specified in this Agreement, as and to the extent that such requirements apply to Business Associates under the HIPAA Rules.

3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.

BUSINESS ASSOCIATE may, except as otherwise limited in this Agreement:

- a. General Use and Disclosure: Create, receive, maintain or transmit PHI only for the purposes listed in the CONTRACT and this Agreement, provided that the use or disclosure would not violate the HIPAA Rules if done by the STATE or violate the Minimum Necessary requirements applicable to the STATE.²³
- b. Limited Use of PHI for BUSINESS ASSOCIATE's Benefit. Use PHI received by the BUSINESS ASSOCIATE in its capacity as the STATE's BUSINESS ASSOCIATE, if

²⁰ 45 CFR §164.522

²¹ 45 CFR §§164.504(e)(2)(ii)(E), 164.524

²² 45 CFR §§164.504(e)(2)(ii)(G) and (H), 164.528; HAR ch. 2-71, subch. 2.

²³ 45 CFR §§164.502(a) and (b), 164.504(e)(2)(i)

necessary, for the proper management and administration of the BUSINESS ASSOCIATE or to carry out the legal responsibilities of the BUSINESS ASSOCIATE. BUSINESS ASSOCIATE's proper management and administration does not include the use or disclosure of PHI by BUSINESS ASSOCIATE for Marketing purposes or for sale of PHI.²⁴

- c. Limited Disclosure of PHI for BUSINESS ASSOCIATE's Benefit. Disclose PHI for BUSINESS ASSOCIATE's proper management and administration or to carry out its legal responsibilities only if the disclosure is Required by Law, or BUSINESS ASSOCIATE obtains reasonable assurances from the person to whom PHI 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 BUSINESS ASSOCIATE of any instances of which it is aware in which the confidentiality of PHI has been breached.²⁵
- d. Minimum Necessary. BUSINESS ASSOCIATE shall only request, use, and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use, or disclosure.²⁶
- e. Data Aggregation. Use PHI to provide Data Aggregation services relating to the STATE's Health Care Operations as permitted by 45 CFR §164.504(e)(2)(i)(B).
- f. Disclosures by Whistleblowers: Disclose PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR §164.502(j)(1).

4. STATE'S OBLIGATIONS.

- a. STATE shall not request BUSINESS ASSOCIATE to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by STATE.
- b. STATE shall not provide BUSINESS ASSOCIATE with more PHI than is minimally necessary for BUSINESS ASSOCIATE to provide the services under the CONTRACT and STATE shall provide any PHI needed by BUSINESS ASSOCIATE to perform under the CONTRACT only in accordance with the HIPAA Rules.

5. TERM AND TERMINATION.

- a. This Agreement shall be effective as of the date of the CONTRACT or CONTRACT amendment to which this Agreement is attached, and shall terminate on the date the STATE terminates this Agreement or when all PHI is destroyed or returned to STATE.
- b. In addition to any other remedies provided for by this Agreement or the CONTRACT, upon the STATE's knowledge of a material Breach by BUSINESS ASSOCIATE of this

²⁴ 45 CFR §§164.502(a)(5)(ii), 164.504(e)(2)(i)(A), 164.504(e)(4)(i), 164.508(a)(3) and (a)(4)

²⁵ 45 CFR §164.504(e)(4)(ii)

²⁶ 45 CFR §164.502(b)

Agreement, the BUSINESS ASSOCIATE authorizes the STATE to do any one or more of the following, upon written notice to BUSINESS ASSOCIATE describing the violation and the action it intends to take:

- (i) Exercise any of its rights to reports, access and inspection under this Agreement or the CONTRACT;
 - (ii) Require BUSINESS ASSOCIATE to submit a plan of monitoring and reporting, as STATE may determine necessary to maintain compliance with this Agreement;
 - (iii) Provide BUSINESS ASSOCIATE with a reasonable period of time to cure the Breach, given the nature and impact of the Breach; or
 - (iv) Immediately terminate this Agreement if BUSINESS ASSOCIATE has breached a material term of this Agreement and sufficient mitigation is not possible.²⁷
- c. Effect of Termination.²⁸
- (i) Upon any termination of this Agreement, until notified otherwise by the STATE, BUSINESS ASSOCIATE shall extend all protections, limitations, requirements and other provisions of this Agreement to all PHI received from or on behalf of STATE or created or received by BUSINESS ASSOCIATE on behalf of the STATE, and all EPHI created, received, maintained or transmitted by BUSINESS ASSOCIATE on behalf of the STATE.
 - (ii) Except as otherwise provided in subsection 5(c)(iii) below, upon termination of this Agreement for any reason, BUSINESS ASSOCIATE shall, at the STATE's option, return or destroy all PHI received from the STATE, or created or received by the BUSINESS ASSOCIATE on behalf of the STATE, that the BUSINESS ASSOCIATE still maintains in any form, and BUSINESS ASSOCIATE shall retain no copies of the information. This provision shall also apply to PHI that is in the possession of subcontractors or agents of BUSINESS ASSOCIATE. BUSINESS ASSOCIATE shall notify the STATE in writing of any and all conditions that make return or destruction of such information not feasible and shall provide STATE with any requested information related to the STATE's determination as to whether the return or destruction of such information is feasible.
 - (iii) If the STATE determines that returning or destroying any or all PHI is not feasible or opts not to require the return or destruction of such information, the protections of this Agreement shall continue to apply to such PHI, and BUSINESS ASSOCIATE shall limit further uses and disclosures of PHI to those purposes that make the return or destruction infeasible, for so long as BUSINESS ASSOCIATE maintains such PHI. STATE hereby acknowledges and agrees that

²⁷ 45 CFR §164.504(e)(2)(iii)

²⁸ 45 CFR §164.504(e)(2)(ii)(J)

infeasibility includes BUSINESS ASSOCIATE's need to retain PHI for purposes of complying with its work product documentation standards.

6. MISCELLANEOUS.

- a. Amendment. BUSINESS ASSOCIATE and the STATE agree to take such action as is necessary to amend this Agreement from time to time for compliance with the requirements of the HIPAA Rules and any other applicable law.
- b. Interpretation. In the event that any terms of this Agreement are inconsistent with the terms of the CONTRACT, then the terms of this Agreement shall control. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Rules, as amended, the HIPAA Rules shall control. Where provisions of this Agreement are different than those mandated in the HIPAA Rules, but are nonetheless permitted by the HIPAA Rules, the provisions of this Agreement shall control. Any ambiguity in this Agreement shall be resolved to permit STATE to comply with the HIPAA Rules. Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to supersede any federal or State law or regulation related to confidentiality of health information or vital record information that is more stringent than the HIPAA Rules.
- c. Indemnification. BUSINESS ASSOCIATE shall defend, indemnify, and hold harmless the STATE and STATE's officers, employees, agents, contractors and subcontractors to the extent required under the Contract for incidents that are caused by or arise out of a Breach or failure to comply with any provision of this Agreement or the HIPAA Rules by BUSINESS Associates or any of BUSINESS ASSOCIATE's officers, employees, agents, contractors or subcontractors.
- d. Costs Related to Breach. BUSINESS ASSOCIATE shall be responsible for any and all costs incurred by the STATE as a result of any Breach of PHI by BUSINESS ASSOCIATE, its officers, directors, employees, contractors, or agents, or by a third party to which the BUSINESS ASSOCIATE disclosed PHI under this Agreement, including but not limited to notification of individuals or their representatives of a Breach of Unsecured PHI,²⁹ and the cost of mitigating any harmful effect of the Breach.³⁰
- e. Response to Subpoenas. In the event BUSINESS ASSOCIATE receives a subpoena or similar notice or request from any judicial, administrative, or other party which would require the production of PHI received from, or created for, the STATE, BUSINESS ASSOCIATE shall promptly forward a copy of such subpoena, notice or request to the STATE to afford the STATE the opportunity to timely respond to the demand for its PHI as the STATE determines appropriate according to its State and federal obligations.

²⁹ 45 CFR Part 164, Subpart D

³⁰ 45 CFR §164.530(f)

- f. Survival. The respective rights and obligations of STATE and BUSINESS ASSOCIATE under sections 5.c., Effect of Termination, 6.c., Indemnification, and 6.d., Costs Related to Breach, shall survive the termination of this Agreement.
- g. Notices: Whenever written notice is required by one party to the other under this Agreement, it should be mailed, faxed, or e-mailed to the appropriate address noted below. If notice is sent by e-mail, then a confirming written notice should be sent by mail or fax within two (2) business days after the date of the e-mail. The sender of any written notice required under this Agreement is responsible for confirming receipt by the recipient.

STATE:

DHS Information Security / HIPAA
 Compliance Manager
 P.O. Box 700190
 Kapolei, Hawaii 96709-0190
 Fax: (808) 692-8173
 Email: LYong@dhs.hawaii.gov

BUSINESS ASSOCIATE:

 Fax: (____) _____
 Email: _____

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date and year first written above.

BUSINESS ASSOCIATE

Dated: _____ By _____

Representative

DEPARTMENT OF HUMAN SERVICES, STATE OF HAWAII

Dated: _____ By _____

Director