

REQUEST FOR PROPOSAL

FLEXELECT REIMBURSEMENT ACCOUNTS & THIRD PARTY PRE-TAX PARKING REIMBURSEMENT  
ACCOUNT PROGRAM

## STATE OF CALIFORNIA

DEPARTMENT OF HUMAN RESOURCES  
BENEFITS & TRAINING DIVISION



February 2014

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## I. LETTER OF AUTHORIZATION

The following page is a letter authorizing Barney & Barney, LLC to conduct this bid on behalf of the State of California, Department of Human Resources, Benefits and Training Division.



CALIFORNIA DEPARTMENT OF HUMAN RESOURCES

Benefits and Training Division  
1515 S Street, North Building, Suite 400  
Sacramento, CA 95811

Governor Edmund G. Brown Jr.  
Director Julie Chapman  
Chief Deputy Director Howard Schwartz

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January 28, 2014

To Whom It May Concern:

This letter authorizes Barney & Barney, LLC., License No. 0076623, to act on behalf of the State of California, Department of Human Resources (CalHR), as it's representative to conduct a competitive bid process for the State's Group FlexElect Reimbursement Account and Pre-Tax Parking Reimbursement Account Programs.

Please cooperate and provide Barney & Barney, LLC. with all information they may require to complete this RFP process. All questions or concerns related to this process should be directed to Barney & Barney, LLC. at (510) 273-8888.

Sincerely,



Darlene J. Schell, Chief  
Benefits and Training Division

## II. INTRODUCTION

The Department of Human Resources (CalHR), for the State of California, is currently offering the following benefit programs to eligible employees: a flexible spending account benefits program referred to as FlexElect and a Third Party Pre-Tax Parking Reimbursement Account Program (PTP). CalHR has authorized Barney & Barney, LLC. to act on its behalf and conduct a Request for Proposal (RFP) for these programs. For the purpose of this bid, the term "the State" and "CalHR" may be used interchangeably.

**The State's intent is to have one Third Party Administrator (TPA) administer both FlexElect and Third-Party Pre-Tax Parking (PTP) Reimbursement Account Programs.** Details of each program are contained in the General Information section of this RFP.

As an agent of the taxpayers of California, the State feels a strong responsibility for making prudent purchases of all services, including the benefits of employees of the State.

The State has maintained long-term contract relations with many of its vendors. The State's philosophy is to develop long-term partnerships with its outside vendors based on the development and maintenance of common interests, concerns and goals. The successful bidder will demonstrate this partnership by their willingness to proactively work with the State and provide the highest quality of benefits possible with continued assurance that a high level of quality benefit delivery shall be maintained. This also means the State expects its vendors to monitor quality in the provision of its benefits as well as cost. The State views its outside vendors as key members of the team and requires that the successful bidder work closely with the State to maintain close communication with high quality services, pricing and cost controls, as well as effective ongoing communications through periodic meetings (perhaps as often as quarterly) with the State.

### III. PROPOSAL REQUIREMENTS

All timely proposals will be reviewed by Barney & Barney, LLC & CalHR to determine those which meet the minimum qualifications. If the minimum qualifications are not met, the proposal will be determined “nonresponsive” and disqualified. All proposers must meet all minimum qualifications in order to compete in the RFP.

- A. The proposer must demonstrate a minimum of five (5) consecutive years of experience with employee benefit reimbursement account adjudication and recordkeeping. The proposer must demonstrate a minimum of one (1) year experience providing recordkeeping and adjudication services for both a Dependent Care Reimbursement Account (DCRA) and a Medical Reimbursement Account (MRA) as part of the minimum five years experience.
- B. The proposer must provide references from its five (5) largest accounts for which the proposer provided employee benefit reimbursement account adjudication and recordkeeping within the last five (5) years. These services must include recordkeeping and adjudication of reimbursement requests for both a DCRA and MRA. The proposer must have experience serving clients that have an account size which is at least 80% of the State's 9,000 total participants account size (i.e., at least one account with at least 7,200 total participants). CalHR will make this comparison based on the account size of each of the proposer's 5 largest accounts listed in their proposal.
- C. The proposer must certify that it complies with the State's requirements for equipment readiness for State acceptance testing and protection of the participants' confidential and sensitive information.
- D. The proposer's automated system must be capable of interfacing with the State Controller's Office (SCO)'s automated systems.
- E. The proposer must demonstrate that it is a financially sound organization. The proposer must attach a copy of the organization's most recent audited financial statement(s).
- F. The proposer agrees to participate in an annual Reporting / Stewardship meeting to be held at CalHR's contact address. The purpose of the meeting is to discuss the current status of the contract and to determine / plan the future needs of the Program. Any and all costs (including travel) incurred by the proposer which are related to the annual Reporting / Stewardship meeting shall be the sole responsibility of the proposer.
- G. The proposer agrees to administer both programs: FlexElect and the PTP Reimbursement Account for the State. Failure to quote both programs will result in disqualification.

### III. PROPOSAL REQUIREMENTS (CONTINUED)

#### H. DISPOSITION OF PROPOSALS:

1. Upon posting of a "Letter of Intent to Award", all documents submitted in response to this RFP will become the property of the State of California, and will be regarded as public records under the California Public Records Act (Government Code Section 6250, et seq.) and subject to review by the public. However, the contents of all proposals, correspondence, agenda, memoranda, working papers, or any other medium which discloses any aspect of a proposer's proposal, shall be held in the strictest confidence until the "Letter of Intent" is posted. After the announcement of the apparent successful proposer, all responses shall be available during normal business hours for public inspection and copying, except those portions a proposer has identified to be trade secrets or security matters. Proposers are to identify portions by marking "Confidential" on each page containing confidential information. The CalHR will consider such confidentiality requests, subject to California's public disclosure requirements. Proposers are responsible for all legal costs arising out of any legal disputes concerning the proprietary information.
2. CalHR shall have the right to use all ideas or adaptation of the ideas contained in any proposal received in response to this RFP. Selection or rejection of proposals will not affect this right.

#### I. STANDARD CONDITIONS OF SERVICE:

1. Service shall be available on the express date set by the CalHR and the Contractor, after all approvals have been obtained and the agreement is fully executed. Should the Contractor fail to commence work at the agreed-upon time, the CalHR, upon five (5) days' written notice to the Contractor, reserves the right to terminate the agreement. In addition, the Contractor shall be liable to the State for the difference between the Contractor's proposal rate and the actual cost of performing work by the second lowest proposer.
2. All performance under the agreement shall be completed on or before the termination date of the agreement.
3. Certain portions of the Agreement are required by law or policy. These agreement provisions are included with the RFP as Exhibit 1. The Contract Terms, Conditions, and Provisions are not negotiable.
4. No oral understanding or agreement shall be binding on either party.

#### IV. SUMMARY OF KEY DATES

The following summary outlines important actions, and the dates and times by which these actions must be taken or completed. If the CalHR finds it necessary to change any of these dates, notification will be accomplished by an addendum. All times indicated throughout the RFP are Pacific Standard Time (PST).

We intend to adhere as closely as possible to the following schedule throughout this bid process:

ACTION STEPS	TARGET TIMING
Advertise Bid in State Contracts Register (RFP Available to Proposers)	February 7
Requests for quotations to vendors	February 7
Vendor questions due	February 19
Question responses distributed to vendors	March 4
Vendor proposals due	<b>5pm PST March 21st</b>
Analysis of proposals presented to State & selection of Finalists	Week of April 7th
Negotiations with Finalists	Week of April 14th
Finalist Presentations	Week of April 28th
Intent to Award Notification	May 9
Contract Awarded	May 16
Coverage Effective	January 1, 2015 – December 31, 2016  <b>(FlexElect Program has a runout period until July 31, 2017)</b>

Important: Proposals delivered after the published due date will be subject to disqualification

## V. PROPOSAL INSTRUCTIONS

### 1. Quote Response:

We are requesting that you display your quotation responses by completing the Quote Summary Sheet, which is on the following page of this section.

### 2. Deviations:

All deviations from the requested plan designs and services to be delivered must be clearly highlighted in your response. Otherwise we will assume you have agreed to all aspects of this request for proposal.

Failure to clearly structure and delineate the proposal(s) may, at the discretion of CalHR, cause a proposal to be rejected.

### 3. Terms of the Agreement for each program are:

FLEXELECT – January 1, 2015 to December 31, 2016 (w/ optional three 1-year extensions)

Note: The FlexElect Program's six-month run-out period requires services through July 31, 2017

PTP – January 1, 2015 through December 31, 2016 (w/ optional three 1-year extensions)

### 4. Performance Guarantees:

It is expected that the successful bidder will be agreeable to negotiating a performance guarantee designed by both parties as evidence of its desire to establish a quality partnering relationship with the State.

### 5. Oral Presentation & On-site Visit:

The proposers who are responsive and meet RFP requirements may be required to make an oral presentation of their proposal to CalHR in Sacramento, California, at the proposers' expense. CalHR will schedule the time for these presentations. Presentations will be for clarification purposes only, and CalHR may not require presentations from all proposers.

### 6. Reports & Information:

Please see section IV, General Information, for specific reporting requirements for each program. In addition, the TPA will be required to audit the FlexElect and PTP at no cost to the state.

### 7. Marketing:

The successful bidder will produce and distribute, via mail on a semi-annual basis and at no additional cost, materials such as postcards, flyers, etc, as designated and approved by CalHR sufficient to facilitate the marketing of both programs to all of the State's potential eligible participants.



## V. PROPOSAL INSTRUCTIONS (CONTINUED)

### 8. Questions Regarding this RFP:

All questions regarding this RFP must be submitted in writing to Endeliza Hampton at Barney & Barney, LLC., 1999 Harrison Street, Ste. 1230 Oakland, CA 94612. Questions must be developed and received by February 19 2014. Ms. Hampton can be reached by e-mail: [endeliza.hampton@barneyandbarney.com](mailto:endeliza.hampton@barneyandbarney.com). Questions received and replied to will be distributed to all vendors responding to this RFP.

### 9. Proposal Due Date:

Copies of the proposal are due in the offices of Barney & Barney, LLC., 1999 Harrison Street, Suite 1230, Oakland, CA 94612, by 5 pm PST on March 21, 2014. Please provide five (5) original copies of your proposals, plus one electronic copy (on CD[s] or via e-mail).

### 10. Follow-up Questions:

You may be required to answer written questions regarding your response to this RFP. Answers shall be deemed incorporated into the initial response. Bidder must respond to all follow-up questions. Failure to do so is grounds for immediate rejection of bid proposal.

### 11. Communication Channel throughout Bid Process:

All communication throughout this bid process is to be directed exclusively through the offices of Barney & Barney, LLC. At no time throughout the proposal development process is there to be any direct communication with CalHR or personnel of the State. Violation of this channel of communication may be considered as grounds for bid disqualification.

## STATE OF CALIFORNIA COST & RETENTION ILLUSTRATION WORKSHEET FLEXELECT & PTP

**Vendor Name:** \_\_\_\_\_

### PROGRAMS

	CURRENT FIXED RATES PER PARTICIPANT PER MONTH	PROPOSED FIXED RATES PER PARTICIPANT PER MONTH
FlexElect Reimbursement Accounts <sup>(1)</sup>	\$ 2.20	\$
–PTP Reimbursement	\$ 1.90	\$

<sup>(1)</sup> The monthly rate will be based on the number of individual participants regardless of whether they are in one account or both accounts

Rate Guarantee (minimum of 2 years): \_\_\_\_\_

% of fee you are willing to put at risk: \_\_\_\_\_

**Note: Please quote a fixed, monthly, per participant rate to provide recordkeeping and adjudication and other related services. This rate will remain in effect for the entire contract period.**

## VI. GENERAL INFORMATION

### A. FLEXELECT REIMBURSEMENT ACCOUNT

#### 1. BACKGROUND

The State of California, Department of Human Resources (CalHR), Benefits and Training Division administers a flexible spending account benefits program, referred to as "FlexElect", for eligible State employees. The FlexElect Program is authorized and governed by the Internal Revenue Code (IRC) Section 125 and other applicable provisions of the IRC. Two options offered in the FlexElect Program are a Dependent Care Reimbursement Account (DCRA) and a Medical Reimbursement Account (MRA).

The CalHR is seeking a qualified Third Party Administrator (TPA) to

- a. Provide recordkeeping services for the DCRA and the MRA.
- b. Adjudicate reimbursement requests for both reimbursement accounts.
- c. Provide reimbursement information via electronic file transfer to the State Controller's Office (SCO) so that warrants can be produced and mailed to participants.
- d. Produce and mail marketing materials as designated and approved by CalHR, postcards, participant packets, account statements and other correspondence to participants and provide account activity reports to CalHR.

Currently, there are approximately 1,100 employees enrolled in the DCRA and 6,800 employees enrolled in the MRA for the 2013 Plan Year. Within these numbers there are approximately 1,000 employees enrolled in both a DCRA and a MRA.

The term of the Agreement will be January 1, 2015, through July 31, 2017 (including run-out period), with the option of three, one-year extensions. CalHR will evaluate all proposals properly submitted according to specifications contained in this RFP and applicable State laws and regulations. The State reserves the right to reject any or all proposals.

The successful proposer and their subcontractors will be required to maintain financial and accounting records related to the services and supporting evidence pertaining to the contract in accordance with generally accepted accounting principles and other procedures specified by CalHR. Financial and accounting records must be available during normal business hours to CalHR, the Attorney General, the Bureau of State Audits, and the Department of Finance during the contract period and any extension thereof and for three (3) years following the final payment date.

The CalHR reserves the right to add other pre-taxed flexible benefit reimbursement options authorized by the IRC 125 to the terms of the Agreement between the proposer and the CalHR. Should the CalHR decide to add additional reimbursable benefits authorized by the IRC to the FlexElect Program, the proposer must be knowledgeable of the applicable codes and must have the ability to act as a TPA for such accounts. The proposer shall agree to accept the fixed, monthly, per-participant rate submitted in the cost proposal for the RFP to provide recordkeeping services for such accounts.

## VI. GENERAL INFORMATION (CONTINUED)

### A. FLEXELECT REIMBURSEMENT ACCOUNT (CONTINUED)

#### 2. DEFINITIONS / ABBREVIATIONS

ADA	Americans with Disability Act
AGREEMENT	A legally binding contract between the State & the Contractor
CalHR	Department of Human Resources
CONTRACTOR	Firm awarded the Agreement
COBRA	Consolidated Omnibus Budget Reconciliation Act
DCRA	Dependent Care Reimbursement Account
DGS	Department of General Services
DVBE	Disabled Veteran Business Enterprise
EZA	Enterprise Zone Act
FLEXELECT	State's Program Name for the Flexible Spending Account Benefit Program
GCS	Government Code Section
GFE	Good Faith Effort
IRC	Internal Revenue Code
IRS	Internal Revenue Service
MRA	Medical Reimbursement Account
OLS	Office of Legal Services
OSBCR	Office of Small Business Certification & Resources
PCC	Public Contract Code
PPSD	Personnel / Payroll Services Division (at SCO)
PROPOSER	Business entity proposing to contract with DPA
PTP	Third Party Pre-Tax Parking Reimbursement Account Program
RFP	Request for Proposal
SAM	State Administrative Manual
SCO	State Controller's Office
SIMM	State Information Management Manual
STATE	State of California
TACPA	Target Area Contract Preference Act
TPA	Third Party Administrator

#### 3. SPECIFIC REQUIREMENTS

##### a. DEPENDENT CARE & MEDICAL REIMBURSEMENT ACCOUNT REQUIREMENTS

1. Plan Effective Date – January 1, 2015
2. Term of Agreement - January 1, 2015 through December 31, 2016. The successful proposer will be expected to enter into a 31-month Agreement to include continual services through July 31, 2017.

During the period of time prior to the start date of the 2015 FlexElect Plan Year, the TPA will complete the tasks as outlined in Exhibit 12 & implement the necessary systems and procedures to effectively administer the DCRA and MRA. The seven months following the end of each Plan Year (the run-out period) will be used to adjudicate claims for reimbursement to participants enrolled in each Plan Year.

## VI. GENERAL INFORMATION (CONTINUED)

### A. FLEXELECT REIMBURSEMENT ACCOUNT (CONTINUED)

The CalHR reserves the right to amend and/or extend the Agreement for three additional one-year extensions. If the Agreement is extended, the CalHR reserves the right to negotiate the rate using claims experience and industry trends.

The CalHR also reserves the right to terminate the Agreement if a rate cannot be negotiated. The third, fourth and fifth year rate adjustments (%) shall not exceed the change (%) in the Consumer Price Index (CPI) for the preceding 24-month period.

3. **Open Enrollment** – The annual open enrollment period, held sometime during September and October, will be the only time eligible employees (excluding "newly eligible" employees) will be allowed to enroll in the DCRA and the MRA. Participants are required to re-enroll each year during open enrollment.
4. **Eligible Employees** – There are approximately 210,000 employees eligible to participate in the FlexElect Program. There are approximately 1,100 employees enrolled in the DCRA, and 6,800 employees enrolled in the MRA. Within these numbers, there are approximately 1,100 employees enrolled in both a DCRA and a MRA. Eligible employees include State employees designated represented, managerial, supervisory, confidential, and those employees exempt from collective bargaining, Constitutional Officers, employees of the Judicial Council, Supreme, Appellate and Superior Court Judges. All eligible employees must work at least half time or more. Civil service employees must have permanent status or must have a right to return to a permanent position. The State reserves the right to expand eligibility to other groups of employees.
5. **Newly Eligible Employees** – Newly eligible employees may enroll in the FlexElect Program during the Plan Year if: (1) they are a newly hired eligible State employee or, (2) their timebase changes from less than half-time to half-time or more or, (3) they were on an approved leave of absence during the entire open enrollment period or, (4) they experience a change in status event as described in the IRC.
6. **Enrollment Forms** – Salary reduction agreements, the Reimbursement Account Enrollment Authorization (STD. 701R), will be completed by employees and agency personnel staff and forwarded to SCO who will enter the monthly pre-tax dependent care and/or medical deduction amount(s) to the employee's payroll history.
7. **Reimbursement Requests Adjudication** – Participants will submit requests for reimbursement (by warrant or direct deposit), accompanied by any necessary documentation, directly to the TPA on special forms supplied by CalHR, via the following methods:
  1. Any mail service of the participants choosing,
  2. Or by a toll-free fax number established / maintained at the TPA's expense.
  3. Or online submission directly through the TPA's website.

## VI. GENERAL INFORMATION (CONTINUED)

### A. FLEXELECT REIMBURSEMENT ACCOUNT (CONTINUED)

The TPA will adjudicate the reimbursement requests and update the participants' accounts for payment of the approved reimbursement requests three times a month. The TPA must perform all reimbursement requests adjudication in a facility located in the United States.

8. Reimbursement to Participants – The TPA must adhere to CalHR's time schedule of payment and processing. Reimbursement requests from the DCRA and the MRA are paid three times a month by the SCO in accordance with the following schedule:

**Valid requests received at the TPA by the:**

1st of the month  
10th of the month  
20th of the month

**Reimbursement warrants issued by the SCO between the:**

14th – 16th of the same month  
24th – 26th of the same month  
3rd – 5th of the following month

9. Interest Payments – Interest will not be credited on the participants' account balance.
10. Forfeiture Requirements – Participants will have until June 30 following each Plan Year to submit requests for eligible expenses from the previous FlexElect Plan Year. In accordance with Internal Revenue Service (IRS) requirements, any amounts remaining in a DCRA or MRA at the close of the run-out period for each Plan Year will be forfeited.
11. Change in Status Events – Employee contribution amounts may not be canceled or changed during the Plan Year except when the employee experiences an allowable change in status event as defined in the IRC (see Exhibit 8, pages 14-16). If an employee participating in a DCRA or MRA has an allowable change in status event during a Plan Year, he or she will be allowed to change the contribution amount or terminate the contribution to the account. Employees who experience a change in status event must complete a Reimbursement Account Enrollment Authorization (STD. 701R) and submit it to their personnel office. The personnel office approves the form and forwards it to SCO for processing. A hard copy of the form showing the enrollment, change or cancellation is forwarded to the TPA for the participant packet mailing.
12. Customer Service – The TPA should be prepared to provide customer service in response to employees' inquiries regarding the status of their reimbursement requests. A toll-free telephone number dedicated to CalHR must be installed and maintained no later than the effective date of the Agreement. At a minimum, the toll-free telephone number must be accessible between 8 a.m. and 5 p.m. Pacific Standard Time. It must be provided for the duration of the Agreement for use by employees calling from within and outside California.
13. Personal Identification Number (PIN) – The TPA should provide a PIN to each participant at the time of the initial enrollment in a DCRA or MRA which may be used to access personal account information.

## VI. GENERAL INFORMATION (CONTINUED)

### B. SPECIFIC DEPENDENT CARE REIMBURSEMENT ACCOUNT REQUIREMENTS

1. **Minimum and Maximum Deposits to a DCRA** – Each DCRA participant may elect to make deposits from salary redirection into a DCRA in an amount no less than \$20.00 per month and up to \$416.66 per month (\$5,000 per household annually). Employees who enroll mid-year can contribute the annual maximum into their account. Therefore, the monthly maximum deduction would not be limited to \$416.66. The annual contribution cannot exceed the lesser of (a) the applicable maximum amount; or (b) the employee's annual earned income; or c) the annual earned income of the employee's spouse.
2. **Eligible Expenses** – The amounts deposited into the DCRA are to be used to reimburse participants, on a nontaxable basis, for any incurred child care or dependent care related expenses in accordance with the regulations under Section 129 and other applicable provisions of the IRC. These reimbursements may only be made for expenses incurred during the Plan Year of participation and are subject to limitations based on each participant's and his/her spouse's earned income.
3. **Minimum Reimbursement** – The minimum reimbursement amount that will be paid from a DCRA is \$10.00. If a reimbursement request is submitted for less than \$10.00, the amount will be pended until the total reimbursement amount equals \$10.00 or more unless there is less than \$10 in the account. If that is the case, the claim should be paid. If a reimbursement request exceeds the amount deposited in the DCRA, the claim will be paid up to the amount in the account. The balance will be pended as an unpaid request. As deposits are subsequently made to the account, payments will be made up to the amount in the account.
4. **Participant Contributions to Accounts** – Participants who cease to make contributions to their DCRA may continue to submit eligible expenses for reimbursement for the remainder of the Plan Year. Participants cannot be reimbursed for more than the balance in their DCRA.
5. **Overall DCRA Administrative Requirements** – The proposer's proposal must demonstrate the proposer's ability to implement and maintain an IRC Section 129 DCRA plan.

## VI. GENERAL INFORMATION (CONTINUED)

### C. SPECIFIC MEDICAL REIMBURSEMENT ACCOUNT REQUIREMENTS

1. **Minimum and Maximum Deposits to a MRA** – Each MRA participant may elect to make deposits from salary redirection into a MRA in an amount no less than \$10.00 per month and up to \$208.33 per month (\$2,500 annually). Employees who enroll mid-year can contribute the annual maximum into their account. Therefore, the monthly maximum deduction would not be limited to \$208.33.
2. **Eligible Expenses** – The amounts deposited to the MRA are to be used to reimburse participants, on a nontaxable basis, for any eligible medical / health care related expenses (excluding medical insurance premiums) in accordance with the regulations under Section 125, 152, 213, Internal Revenue Publication 502 and other applicable provisions of the IRC.
3. **Minimum Reimbursement** – The minimum reimbursement amount that will be paid from a MRA is \$10.00. If a reimbursement request is submitted for less than \$10.00, the amount will be pended until the total reimbursement amount equals \$10.00 or more unless there is less than \$10 in the account. If that is the case, the claim will be paid.
4. **Uniform Coverage** – If a participant's reimbursement request exceeds the amount deposited in the MRA, the request will be paid up to the amount that the participant will have contributed for the entire Plan Year (annual contribution amount).
5. **Participant COBRA Contributions to Accounts** – Participants who leave active pay status may continue to submit eligible expenses for reimbursement for the remainder of the Plan Year, providing they continue participation through the Consolidated Omnibus Budget Reconciliation Act (COBRA). Participation under COBRA will require monthly MRA payments which will be made to CalHR. There is no tax savings on contributions to a MRA under COBRA. CalHR will notify the TPA of the participant's continued eligibility under COBRA. The TPA will accept and schedule for payment all reimbursement requests for eligible medical expenses incurred during the COBRA participation. If participants terminate their COBRA contribution, only those eligible expenses incurred while enrolled in COBRA will be reimbursed.

The proposer awarded the Agreement must have the capability to post deposits on a "manual" basis which may be generated as a result of COBRA enrollment.

6. **Overall MRA Administrative Requirements** – All proposals must demonstrate the proposer's ability to implement and maintain a MRA under IRC Sections 125, 152, 213, Publication 502, and other applicable IRC provisions pertaining to a MRA plan.



## VI. GENERAL INFORMATION (CONTINUED)

### D. SYSTEM REQUIREMENTS FOR DEPENDENT CARE & MEDICAL REIMBURSEMENT ACCOUNTS

#### 1. Application Architecture Requirements

- a. The technical infrastructure supporting the system / software application must be fault tolerant with no single point of failure for processing, storage, or connectivity required for handling data.
- b. The technical architecture must provide both processing and data integrity while insuring continuity of operational support through operational recovery capabilities.
- c. The TPA must provide a Certification of Equipment Readiness for State acceptance testing.

#### 2. State of California's Requirements for the Protection of Participants' Confidential and Sensitive Information

- a. The State of California is the owner of all information / data for this program. As the custodian of the information, the TPA is responsible for complying with any and all security policies and procedures established by the owner and the agency Information Security Officer of the information / data as described in State Administrative Manual (SAM), Sections 4841.6 and 4842.2 (Exhibits 2 and 3).
- b. The TPA must promptly investigate incidents involving the unauthorized or accidental modification, destruction, disclosure, loss, or access to automated files and databases, as well as incidents involving loss, damage, or misuse of information assets. The TPA must notify and complete an Incident Reporting Form, State Information Management Manual (SIMM), to CalHR immediately upon detection / discovery of the following incidents:
  - 1) Unauthorized intentional release, modification, or destruction of confidential or sensitive information or the theft of such information, including information stolen in conjunction with the theft of a computer or data storage device;
  - 2) Use of a state information asset in commission of a crime;
  - 3) Tampering, interference, damage, or unauthorized access to computer data and computer systems as described in the Comprehensive Computer Data Access and Fraud Act found in California Penal Code Section 502 (Exhibit 5);
  - 4) Intentional non-compliance by the custodian of information with their responsibilities as defined in SAM 4841.6; or
  - 5) Intentional damage or destruction of state information assets, or the theft of such assets, with an estimated value in excess of \$2,500.
- c. The TPA must report to the CalHR known instances in which personal information, as defined in California Civil Code Section 1798.3 (Exhibit 6), has been distributed or obtained by any person in a manner not in accordance with the Information Practices Act, the California Public Records Act and California Civil Code Section 1785.10 (Exhibit 7).

## VI. GENERAL INFORMATION (CONTINUED)

### D. SYSTEM REQUIREMENTS FOR DEPENDENT CARE & MEDICAL REIMBURSEMENT ACCOUNTS (CONTINUED)

#### 3. Account Posting

- a. Internet Payroll Deduction Reporting Process – On a semi-monthly basis, deduction files will be available on the SCO server for both the DCRA and the MRA. These files are maintained by the SCO, Personnel / Payroll Services Division (PPSD), and will contain the amounts actually deducted from the participants' paychecks for the DCRA and the MRA respectively. These files will be used by the TPA to integrate with its automated recordkeeping system to post deposits to participants' reimbursement accounts.

The TPA must meet the layout and specifications for the Internet Payroll Deduction Reporting Process as shown in Exhibit 9.

- b. Employee History Electronic File – The SCO / PPCD will produce an annual Employee History electronic file for both the DCRA and the MRA. The data on the files will be based on the employee profile information that is required for the TPA to maintain the DCRA and the MRA and to process reimbursement request files for both accounts. A monthly Employee History electronic file for both the DCRA and the MRA will also be produced by PPCD. CalHR or PPCD will send the files to the TPA each month. These monthly files will be used by the TPA to update participants' profile data required for reimbursement request processing, including name and home address changes.

The file format of the Employee History File is displayed in Attachment 5 within Exhibit 4.

- c. Electronic File Claim Requirements – An electronic file for both the DCRA and the MRA, containing payment information, will be produced by the TPA and sent to CalHR for each payment cycle described in Section VI.3, Item A.8. CalHR will forward these files to the SCO, Claims Audit and Disbursement Division, for the actual production and mailing of reimbursement warrants to participants' home addresses or direct deposition in the participant's account.

The TPA must meet all the layout and specifications for the electronic file claims process as shown in Exhibit 4.

- d. Account Data Exchange File Requirements – An electronic file for both the DCRA and the MRA, containing the warrant or direct deposit notice number (check number) of each DCRA payment and each MRA payment made by the SCO, Claims Audit and Disbursement Division, will be produced by that Division and forwarded to the TPA each month. These files will be used by the TPA to update the warrant number information to the appropriate reimbursement account payment record. The TPA must have the ability to receive and send files via FTP.

## VI. GENERAL INFORMATION (CONTINUED)

### D. SYSTEM REQUIREMENTS FOR DEPENDENT CARE & MEDICAL REIMBURSEMENT ACCOUNTS (CONTINUED)

Note: The dates within each month that the electronic files for both reimbursement accounts are due from the TPA will be scheduled after the award of the Agreement by CalHR. In order to meet scheduled issue dates for reimbursement payments, these dates must be strictly adhered to.

The successful proposer must meet the SCO format requirements for the data exchange files as shown in Exhibit 4.

#### 4. Payroll System Requirements

- a. The majority of employees eligible for the DCRA and the MRA are paid through a monthly negative or monthly anticipatory payroll system. Payroll processing is performed on the twenty-first or the twenty-second of each month, and the amount of payment to the employee is generated from pay information on the Employee History File. Payment is based upon what the employee should be paid through the end of the month. Warrants to the employees are verified by the employing agency, and if overpayments occur, warrants are returned to the SCO for redeposit and reissue based upon individual input provided by the respective agency.

The SCO Reimbursement Account process will include reporting negative amounts on DCRA contributions and MRA contributions (reverse deductions) to the TPA because of redeposited warrants. The TPA's recordkeeping system must be able to make adjustments to participant accounts by negative amounts.

- b. The majority of the monthly payroll deduction activity for employees participating in a DCRA and a MRA will be single deposits into individual accounts by payroll period. However, due to retroactivity that can result from various types of employee leaves and late document processing, there will be situations where it will be necessary to make multiple reimbursement account deposits into individual accounts in a single month. This situation can result when an employee returning from a leave of absence receives multiple pay period payments within the same reporting period. The TPA's recordkeeping system must be able to adjust for multiple account deposits received in a single reporting period.

#### 5. Test Period

The proposer awarded the Agreement will be required to ensure that its automated systems are integrated and compatible with the State payroll system. The six (6) month period prior to the start of the 2015 Plan Year will be devoted to the production of test files and Internet Payroll Deduction Reporting Process by the successful proposer awarded the Agreement, in order to resolve any problems that may develop during this test period and ensure interface is completed properly and timely (see Exhibits 9 and 10).

The successful proposer assumes all responsibility for costs incurred during the test period, prior to the effective date of the Agreement.

## VI. GENERAL INFORMATION (CONTINUED)

### E. REIMBURSEMENT REQUESTS ADJUDICATION REQUIREMENTS

The minimum administrative procedural requirements for both the DCRA and the MRA reimbursement request adjudication are as follows:

1. Reimbursement Request Forms will be completed by employees participating in the reimbursement accounts and mailed to the TPA with the required documentation attached.
2. The TPA's review and approval process of reimbursement requests must assure compliance with all applicable IRS regulations relevant to the adjudication process.
3. Any reimbursement request not meeting the requirements listed above will be returned to the participant within five (5) working days of receipt with an explanation on why the request was rejected. If the problem can be resolved by a telephone call from the TPA to the participant to obtain additional information, the TPA should use this method of resolution.
4. If a reimbursement request has been denied by the TPA, the participant may appeal the denial within sixty (60) days after receipt of the written denial by submitting a written request for review to CalHR. The TPA will make a recommendation, however, CalHR will be responsible for the final determination of all disputed reimbursement requests.
5. The TPA must provide a "reimbursement request tracking" system for client service purposes, specifically, to answer a participant's inquiry as to the status of their request (e.g., when was it received?, when can they expect their payment?, warrant number? issue date? or other status related questions).

## VI. GENERAL INFORMATION (CONTINUED)

### F. ACCOUNT STATEMENT & REPORT REQUIREMENTS

#### 1. Statements

The TPA will be required to produce and mail account statements. A total of six account statements will be produced and mailed for each account, for each Plan Year. These will consist of four (4) quarterly account statements, one runout period account statement, and one (1) final account statement. The TPA will design the account statement with the approval of CalHR. The account statements will be produced and mailed in accordance with the mail-out schedule displayed in Exhibit 11. The TPA's return address shall be on the envelopes containing the account statements. Account statements returned to the TPA as undeliverable are to be forwarded to CalHR for further processing. CalHR may request that the TPA place special notice information on statements. Information may consist of language to provide program updates to participants.

At a minimum, the account statements will contain the following information:

1. Participant's name
2. Personal Identification Number
3. Home mailing address
4. Personal Identification Number (PIN)
5. Beginning & ending account balances
6. Payroll dates with amounts & date credited
7. Amounts requested
8. Pending amounts
9. Amounts paid & date of payments
10. Reimbursement check numbers
11. Time period covered by the account statement (e.g. "Activity from January 1, 2015, through March 31, 2015")

#### 2. Participant Packets & Open Enrollment Postcards

The TPA will be required to mail out Postcards to all current year Reimbursement Account Participants and all employees eligible to enroll into the Permanent-Intermittent (PI) Cash Option; and a Participant Packet to all employees enrolling into the MRA and DCRA during open enrollment. The postcards go out one month before open enrollment each year. In December or January, the TPA will mail out packets containing a Participant Letter, prepared by CalHR, discussing any changes in the program from the previous year and giving specific information on how to submit a claim. The packet will also include three claim forms (CalHR 351) for the participants' use as well as a HIPAA notice to those enrolled in the MRA. These packets will also be sent out for the new enrollees that enroll into the reimbursement account through the year as "newly eligible." The packets will also contain the HIPAA letters for the new enrollees to the MRA. A sample of the participant letter and postcards will be included as Exhibit links.

## VI. GENERAL INFORMATION (CONTINUED)

### F. ACCOUNT STATEMENT & REPORT REQUIREMENTS (CONTINUED)

#### 3. Reports

The TPA will be required to produce and send with each reimbursement tape a payment register report listing those accounts scheduled for reimbursement and the amount to be paid. In addition, the TPA will be required to produce monthly account summary reports and any additional ad hoc reports that will assist CalHR in the administration of these accounts. Account forfeiture reports will be required at the end of each plan year. The format and specific information contained in the reports must be approved by CalHR prior to the beginning of the Plan Year. Costs associated with changes in format, etc., requested by CalHR will be the TPA's responsibility.

#### 4. Proposal Questionnaire

The proposer must respond to the completed proposal questionnaire, Section VII of this RFP, as part of the entire proposal package. The questionnaire requests information regarding the proposer's firm and references as well as responses to technical questions. The information must be provided in the prescribed numbered format with all questions repeated in their entirety and then the answers given. Proposers should submit responses in the proposal questionnaire in the identical order that questions are provided.

#### 5. Rate Proposal

Quote a fixed, monthly, per-participant rate to provide recordkeeping services as outlined in Section VI.3, Specific Requirements. This rate will remain the same for the entire contract period (January 1, 2015, through July 31, 2017). The monthly rate will be based on the number of individual participants, regardless of whether they are enrolled in one account or both accounts.

If the cost for marketing materials is not included in the fixed monthly, per-participant rate, please include the separate cost for the marketing materials (postcards, participant packets and other marketing materials).

The proposer must provide the name, title, and phone number of a financial spokesperson who, if necessary, can be contacted to provide clarification on the proposer's cost proposal.

## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP

#### 1. BACKGROUND

The PTP is not a subsidy program; it is for employees who do not have access to Department of General Services / Office of Fleet Asset Management (DGS / OFAM) parking spaces or a department- sponsored parking program. The employee has his/her parking fees deducted pre-tax from his/her paycheck; he/she must also pay for the parking directly to the parking vendor and get a receipt. The employee then submits a claim to a TPA for reimbursement of the fees deducted from his/her paycheck.

The Program is administered by the CALHR. CalHR contracts with a TPA for record keeping and claims adjudication.

##### a) AUTHORITY

The Program is regulated by Section 132 (f) of the Internal Revenue Code (IRC) – Qualified Transportation Fringe Benefits.

The IRC defines “qualified parking” as:

Parking on or near the employer’s business premise or at a location from which the employee commutes to work by carpool, commuter highway vehicle, mass transit facilities, transportation provided by any person in the business of transporting persons for compensation or hire, or by any other means.

- California Revenue and Taxation Code Sections: 17131, 17144.5, and 17149
- California Unemployment Insurance Code Sections: 938.3, 13006, 13009, and 13009.5
- State of California Memoranda of Understanding: Applicable Bargaining Unit Contracts
- California Government Code Sections: 1156.1, and 19849.10
- CALHR PMLs: 2000-024, 2001-067, 2002-74, 2004-008, and 2005-044

##### b) BENEFIT / MAXIMUM DEDUCTION

The maximum deduction amount is set by the Internal Revenue Service (IRS). If the employee’s pre-tax parking deduction exceeds the maximum deduction for the year, the State Controller’s Office (SCO) will add the excess to his/her taxable income prior to the production of the W2 for the tax year. Contractor will promptly notify CALHR of changes made by the IRS to the annual maximum deduction amount.

## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP (CONTINUED)

#### c) ELIGIBILITY

The following Active State employees are eligible to participate in the PTP:

- Rank & File
- Managerial
- Supervisory
- Confidential
- Excluded (including: Constitutional Officers; employees of the Judicial Council; & Supreme, Appellate & Superior Court Judges)

Eligibility criteria specific to the PTP are:

- 1) Employee drives a personal vehicle to work or to a location from which he/she commutes to work;
- 2) Employee pays for employment-related parking in a paid facility providing a receipt; and
- 3) Employee does not have a DGS / OFAM or department-administered parking space.

#### d) EFFECTIVE DATE

Eligibility begins the first month following the first payroll deduction (IRC requirement).

#### e) ENROLLMENT

Employee completes a Pre-Tax Parking / Third-Party Administrator / Reimbursable Account enrollment form (CalHR 682) and submits it to his/her Personnel / Payroll Office. To be effective for the current pay period, the enrollment form must be processed and forwarded to SCO's Miscellaneous Deductions Unit (MDU) by the 10th of the month.

#### f) CLAIM PROCESS

The Program claims process is as follows:

- a. A specified pre-tax reimbursement account dollar amount is deducted from the employee's check. The deduction is always for the next month (e.g., the deduction taken in March pay period is for the month of April's parking).
- b. Employee pays his/her parking fees and receives a receipt for "qualified parking" expenditures for the month (e.g., monthly, weekly or daily receipts).
- c. Employee completes a Pre-Tax Parking / Third-Party Administrator / Reimbursable Account claim form (CalHR 681). The employee's signature on the claim form certifies that the reimbursement is for "qualified parking" and he/she meets the eligibility criteria.



## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP (CONTINUED)

- d. The employee submits the completed CalHR 681 along with the required payment documentation (receipt, copy of money order, copy of cashier's check, or copy of the front and back of cancelled personal check) to the TPA.
- e. The PTP payments (checks or direct deposit notices) are mailed once a month at the end of the month. Employees must submit claims to the TPA by the 15th of the month to be included in the monthly processing cycle.

#### g) CHANGES

Participants in the PTP may increase or decrease their deduction amount at any time by completing an Enrollment / Change form (CalHR 682) and submitting it to his/her Personnel / Payroll Office. The effective date of the change will be the current pay period if the form is received by SCO by the 10th of the month. Retroactive changes to deduction amounts are not allowed.

#### h) CANCELLATION

Participants in the PTP may cancel their pre-tax deduction at any time by completing the Enrollment / Change form (CalHR 682) and submitting it to their Personnel/Payroll Office. The effective date of the cancellation will be the current pay period if the form is received by SCO by the 10th of the month.

#### i) FORFEITURE

If an employee participating in the PTP cancels his/her pre-tax payroll deduction and has a balance in his/her account, the employee, as an active State employee, has one (1) year from the date of his/her last activity (deduction or submission of a claim) in which to submit a claim with valid parking receipts for reimbursement.

If the employee has separated from State service and has a balance in his/her account, he/she has one (1) year from date of separation in which to submit a claim for reimbursement of work-related parking expenses incurred prior to separation.

Failure to submit claims for qualified parking within these specified time periods will result in the forfeiture of the remaining funds. Funds which fall into the category of forfeiture will revert back to the State.

## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP (CONTINUED)

#### j) LEAVE OF ABSENCE

When an employee is on a leave of absence (LOA), the pre-tax parking deduction will continue if there is "sufficient gross" pay. If an employee is on Industrial Disability Leave (IDL) and receiving non-taxable income, the pre-tax parking deduction ceases.

Since the PTP payroll deduction can be cancelled and started at any time during the tax year, employees are encouraged to cancel their pre-tax parking deduction if their LOA will last 30 days or more.

#### k) RETROACTIVE ENROLLMENT

Retroactive pre-tax parking deductions are not allowed for the PTP. If the deduction is not taken in the pay period that is requested, the deduction will start in the next pay period.

#### l) REFUNDS

The IRC does not allow for automatic refunds of balances left in a participant's pre-tax parking account. However, there may be circumstances in which an employee is due a refund (e.g. disability, death, employer delay in processing cancellation). Requests for refunds are reviewed on a case by case basis by CalHR.

The employee's Personnel Office must forward a memo to the CalHR Program Manager requesting a refund. If the refund is approved, the Manager sends a memo to SCO authorizing the refund.

Refunds are issued to the employee by their department by check; it is not included in regular pay warrants. SCO will withhold the required taxes from the refund.

#### m) SEPARATION OR RETIREMENT

Upon separation / retirement from the State, the employee's pre-tax parking deduction stops. If the employee is participating in the PTP and there are funds remaining in his/her account, he/she can submit a claim for reimbursement of qualified parking expenses while he/she was in the program and which were incurred prior to separation. The employee has one (1) year following separation or retirement in which to submit a valid reimbursement claim or the remaining funds will be forfeited to the State.

#### n) BENEFICIARY

If the employee was participating in the PTP, any reimbursement claims submitted for qualified parking expenses incurred prior to an employee's death will be paid to his/her beneficiary or estate. The beneficiary or estate has one (1) year following the employee's death in which to submit claims for reimbursement or the funds will be forfeited to the State.

## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP (CONTINUED)

#### 2. SPECIFIC REQUIREMENTS

The Contractor shall provide TPA services for the State's Program. Contractor agrees to provide to CalHR services as described herein:

##### a) PROGRAM REIMBURSEMENTS

###### 1) Effective Dates

The term of the agreement will be January 1, 2015 through December 31, 2016, with three (3) optional one-year extensions at the CalHR's discretion. The CalHR reserves the right to negotiate the monthly participant fee if it exercises any or all of the one-year extensions.

Any negotiated monthly participant fee adjustment shall not exceed the average percentage (%) change in the National Consumer Price Index for All Urban Consumers (CPI-U) for the preceding twenty-four (24) months, as published by the U.S. Department of Labor, Bureau of Labor Statistics, Washington, DC.

###### 2) Eligible Employees

There are approximately 210,000 employees who may be eligible to participate in the State's PTP. Eligible State Employees include: State employees designated rank and file, managerial, supervisory, confidential, or excluded / exempt; Constitutional Officers, employees of the Judicial Council; Supreme, Appellate and Superior Court Judges. The CalHR reserves the right to amend the employee eligibility requirements during the lifetime of the agreement.

Any eligible State employee may enroll in the PTP, if he/she meets the following criteria:

- a. Drives a personal vehicle to work or to a location from which he/she commutes to work;
- b. Pays for parking in a parking facility providing a receipt; and
- c. Does not currently participate in any other State payroll deduction plan for parking such as Department of General Services or any other department-administered State parking plans.

Currently, there are approximately 4,000 employees with a Program Account.

## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP (CONTINUED)

#### 3) State Employee Enrollment

Eligible employees can elect to participate, change and/or cancel participation at any time.

#### 4) Enrollment Forms

A salary reduction agreement, Third Party Pre-Tax Parking Reimbursable Account Enrollment Form (CalHR 682), is completed by employees and agency personnel staff and then forwarded to the State Controller's Office (SCO). The SCO processes the monthly pre-tax parking deduction authorization into the State's payroll system.

#### 5) Reimbursement Request Adjudication

Participants submit requests for reimbursement, accompanied by required documentation, directly to the Contractor on Third Party Pre-Tax Parking Reimbursable Account Claim Form (CalHR 681). The required documentation must include constructive proof of the incurred expense such as receipts (daily, weekly, monthly or annual), copies of a cashier's check, credit card statement, or a money order or cancelled personal check. The Contractor adjudicates the reimbursement requests and updates the participants' account for payment of the approved reimbursement requests once a month, based on an annual processing schedule developed by the CalHR.

#### 6) Reimbursement to Participants

All legible and completed reimbursement claim forms may be sent to the Contractor for processing via the following methods: any mail service of the participants choosing, scanning the document and sending it via electronic mail, or by a toll-free fax number established / maintained at the TPA's expense. Once the Contractor has verified the submitted claim is valid, it will process the claim for reimbursement. All valid claims received before the 15th of each month are to be processed and paid by the end of the month the claim is submitted in. Claims received after the 15th of the month will be processed and paid in the following month.

The Contractor and SCO will use an SCO / CalHR approved, tested, and validated File Transfer Protocol (FTP) process to exchange data for the purposes of creating an employee historical / payroll deduction database as well as providing data for the purposes of participant reimbursement. The data for reimbursement shall be posted via FTP to an approved CalHR data exchange server a minimum of five (5) days prior to the end of the monthly pay period.

## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP (CONTINUED)

The data exchanged includes the participants' Social Security Number, name and address of record, claim schedule number and amount of the claim. The CalHR forwards the reimbursement data via FTP to the SCO for payment. The SCO then issues the participant's reimbursement warrant or direct deposit notice once a month, at the end of the month, to the participant.

The CalHR may, at its discretion, opt to transition the reimbursement claims process to a different process / format.

#### 7) Interest Payments

This program does not have any provision for payment of interest on the participant's account balance.

#### 8) Forfeiture Requirements

Upon cancellation of the payroll deduction for the PTP, participants who are active State employees have one year following their last activity (either pre-tax deduction or submission of reimbursement claim) to submit a claim for reimbursement of eligible parking expenses. When participants leave State service, they or their beneficiaries of record have one year to submit valid reimbursement requests for eligible parking expenses incurred prior to their separation.

Funds remaining in the participants' account past this time period are forfeited to the State; the Contractor is responsible for tracking these funds. The contractor will perform a "sweep" of all forfeited funds on a monthly basis. "Sweepable" funds are those that have gone into forfeiture and for which an additional 6 months has transpired; this means that the funds will have been in forfeiture for a total of 18 months before they can be swept. The 6 month holdover period is meant to allow for a reasonable period of time in the event that there is a dispute over the forfeited funds.

#### 9). Changes to PTP Accounts

Participants may change contribution amounts or cancel their enrollment at any time by making the appropriate changes as indicated in the instructions on the Third Party Pre-Tax Parking Reimbursable Account Enrollment Form (CalHR 682) and filing it with their personnel office.

## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP (CONTINUED)

#### 10) Customer Service

- a. The Contractor will respond to participant inquiries regarding the status of their reimbursement requests. A dedicated toll-free number for the exclusive use of program participants calling from within and outside California must be installed no later than January 1, 2015 and maintained during the entire term of this agreement and any subsequent amendments to the original agreement. At a minimum, the toll-free number must be accessible during the Contractor's normal business hours, and at least between 8:00 a.m. and 5:00 p.m., Monday through Friday, Pacific Standard Time. The toll free number must be provided by the contractor for the duration of the Agreement for use by employees calling from within and outside of California. Upon the expiration of the agreement, at the State's discretion, the Contractor shall surrender complete ownership and control of the toll-free number to the State for the purposes of business continuity; the toll free number will remain the property of the State upon termination of the agreement.
- b. The Contractor must also respond to all written employee inquiries.
- c. The Contractor will develop and maintain at their expense a website specific to the PTP which is to be accessible to current and prospective program participants 24-hours-a-day during the term of this agreement and any subsequent amendments to the original agreement. The website content must be approved by CalHR and will, at a minimum, contain the following:
  1. A secure log-in for participating members to review their account status. The log-in must be encrypted and shall not be based on the participant's social security number. The information available to the participant via the secure log-in shall be:
    - Current account balance
    - Total amount deposited in account
    - Total amount requested for reimbursement
    - Total amount of outstanding claims
    - Claims paid with the following additional information:
      - Amount of each claim paid
      - Warrant number for each paid claim
      - Date of each payment
    - Current status – Active, cancelled, or in forfeiture
  2. A link to CALHR's PTP website
  3. A link to Third Party Pre-Tax Parking Reimbursable Account Enrollment Form (CALHR 682)
  4. A link to the Third Party Pre-Tax Parking Reimbursable Account Claim Form (CALHR 681)
  5. Contact information for the Contractor, including an email link, toll free phone number, and fax number to the Contractor
  6. Any other information as determined necessary by CalHR

## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP (CONTINUED)

#### 11) Maximum Deposits to an Account

Per IRC Section 132, the 2014 maximum monthly deduction for PTP is \$250.00. Any future changes to the maximum monthly PTP Deduction will be addressed by a letter or other form of official communication from CALHR notifying the Contractor of the change. The notification letter or other official communication will be added to the contract file for future reference.

#### 12) Eligible Expenses

The amounts deposited are to be used to reimburse participants, on a non-taxable basis, for receipted parking expenses in accordance with IRC Section 132 and Federal regulations.

#### 13) Minimum Reimbursement

There is no minimum reimbursement amount from an Account. If a reimbursement request exceeds the amount deposited in the Account, the claim will be paid up to the amount in the account.

The remaining outstanding reimbursement amount will be held as an unpaid request, for reimbursement. As deposits are subsequently made to the Account, payments will be made up to the valid claim amount.

### B. SYSTEM REQUIREMENTS FOR PTP ACCOUNTS

#### 1) Application Architecture Requirements

- a. The technical infrastructure supporting the system / software application must be fault tolerant with no single point of failure for processing, storage, or connectivity required for the handling of data.
- b. The technical architecture must provide both processing and data integrity while insuring continuity of operational support through operational recovery capabilities.
- c. The Contractor must provide a Certification of Equipment Readiness for State acceptance testing.

#### 2) State of California's Requirements for the Protection of Participants' Confidential and Sensitive Information

- a. The State is the owner of all information / data for this program. As the custodian of the Information, the Contractor is responsible for complying with any and all security policies and procedures established by the owner and the agency Information Security Officer of the information / data as described in State Administrative Manual Sections (SAM) 4841.6 and 4841.7.

## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP (CONTINUED)

- b. The Contractor must promptly investigate incidents involving the unauthorized or accidental modification, destruction, disclosure, loss, or access to automated files and databases, as well as incidents involving loss, damage, or misuse of information assets. The Contractor must immediately notify CalHR and complete and submit a Security Incident Report Form (Exhibit A, Attachment 1), to CalHR upon detection / discovery of the following incidents:
  - 1) Unauthorized intentional release, modification, or destruction of confidential or sensitive information or the theft of such information, including information stolen in conjunction with the theft of a computer or data storage device;
  - 2) Use of a State information asset in commission of a crime;
  - 3) Tampering, interference, damage, or unauthorized access to computer data and computer systems as described in the Comprehensive Computer Data Access and Fraud Act found in Cal. Penal Code Section 502;
  - 4) Intentional non-compliance by the custodian with their responsibilities as defined in SAM 4841.6; or
  - 5) Intentional damage or destruction of State information assets, or the theft of such assets, with an estimated value in excess of \$2,500.
- c. The Contractor must report to CalHR known instances in which personal information, as defined in Cal. Civil Code Section 1798.3, has been distributed or obtained by any person in a manner not in accord with the Information Practices Act, the California Public Records Act and Cal. Civil Code Section 1785.10.

#### 3) Account Posting

##### a. Employee History Electronic File Transfer

The SCO will provide semi-monthly PTP Employee History Electronic Files to the Contractor. These files will be used by the Contractor to update employees' profile data and process reimbursement requests. The Contractor must update the participants' information and send the Employee History Electronic File to the SCO within 30 days.

##### b. Internet Payroll Deduction Reporting Process

On a semi-monthly basis, the Program deduction files will be available on the SCO server. These files are maintained by the SCO, and will contain the amount deducted from the participants' pay warrants for the Account. The Contractor will use these files to integrate with its automated recordkeeping system to post deposits to participants' reimbursement accounts.



## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP (CONTINUED)

#### c. Electronic File Transfer Claim Requirements

As soon as the files are ready to be transferred; the Contractor will produce and send to CalHR an electronic file containing Account information for reimbursement claims processed during the month. The file will contain the following participant information: Name, Address, Social Security Number, and Amount of Reimbursement. The file must also contain the claim schedule number. The CalHR will forward these electronic files to the SCO for the actual production and mailing of reimbursement warrants to participants' home addresses or for direct deposit into the participant's account, when requested. When the SCO receives the file for payment, it will establish the issue date for the monthly reimbursement warrant / direct deposit.

#### d. Account Data Exchange Electronic File Requirements

Following the creation of the participants' reimbursement warrant / direct deposit, the SCO returns an electronic file to the Contractor with the warrant number and payment issue date for updating participants' account payment records. The Contractor must update the participants account payment records within thirty (30) days of the issuance of reimbursement warrants / direct deposit. The TPA must have the ability to receive and send files via FTP, using the SCO format requirements shown in Exhibit 4.

### 4) Payroll System Requirements

Eligible Program participants are paid through a monthly negative or anticipatory (positive) payroll system. Payroll processing is performed by the SCO or the agency on the 21st or the 22nd of each month, and the employee's payroll warrant is generated from pay information on the Employee History File. The employee's payroll warrant is based upon what the employee should be paid through the end of the month. Pay warrants issued to employees are verified by the employing agency, and if overpayment occurs, warrants are returned to the SCO for redeposit and reissue based upon individual input provided by the respective agency. The SCO reimbursement account process will include reporting negative amounts of account contributions (reverse deductions) to the Contractor because of redeposit warrants. The Contractor's recordkeeping system must be able to make adjustments to employee accounts for negative amounts.

The Contractor's recordkeeping system must be able to adjust for multiple account deposits received in a single reporting period. The majority of the State's monthly payroll deduction activity for employees participating in a Program will be single deposits into individual accounts by payroll period. Exhibit A, Attachment 2, SCO's Pay Periods and Payroll Cycle Schedule lists the pay periods for 2013. However, due to retroactivity that can result from various types of employee leaves, there will be situations where it will be necessary to make multiple reimbursement account deposits into individual accounts in a single month. This situation can result when an employee returning from a leave of absence receives multiple pay period payments within the same reporting period.

## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP (CONTINUED)

#### 5) Test Period

The Contractor must successfully complete a test period to ensure its automated system is capable of interfacing with the SCO's automated systems prior to the start of this Agreement. The test period entails the following:

- a. Production of Electronic File Claim test files for the SCO, Claims Audit and Disbursement Division;
- b. Submission of application for Internet Security Certificate to the SCO, PPSD, 30 days prior to receiving live data; and
- c. Design of participant account files to receive Employee History Extract and Account Data Exchange files.

The minimum number of Electronic File Claims test files is two (2) files. The first test file is produced using the Contractor's own data and a final test file is produced using active participant data. It may be necessary to produce several test files prior to the approval by the SCO for the production of the final test file.

Testing must be completed four weeks prior to the Contractor's automated system going live.

The Contractor assumes all responsibility for any cost associated with the test period as well as follow-up system tests during the term of the Agreement.

### C. REIMBURSEMENT REQUESTS ADJUDICATION REQUIREMENTS

The minimum administrative procedural requirements for the reimbursement request adjudication are listed below:

1. Reimbursement request forms will be completed by employees and mailed to the Contractor with the required documentation attached.
2. The Contractor's adjudication process of participant reimbursement requests must ensure compliance with all applicable IRS regulations.
3. The Contractor will return rejected reimbursement requests to the participant within five working days of receipt, with an explanation for the rejection. Participants may appeal the Contractor's denial for payment within 60 days of receipt by providing a written notice to the Contractor.
4. The Contractor must maintain a "reimbursement request tracking system" for client service purposes and be able to respond to participants who inquire about the status of their request for reimbursement.

## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP (CONTINUED)

#### D. ACCOUNT STATEMENT & REPORT REQUIREMENTS

##### 1. Statements

The Contractor will produce and mail three (3) statements in each calendar year (April, August, and year end statement [December / January]), to each participant. Participants who have been deemed to be in forfeiture shall receive one statement 6 months after the effective date of forfeiture. No subsequent notices shall be sent to participants in forfeiture status after the six (6) month statement has been sent out.

The Contractor must design the account statement for approval of CalHR. The Contractor's return address shall be on the envelopes containing the statements. Statements returned to the Contractor as undeliverable are to be forwarded to CalHR for processing. At a minimum, confidential employee statements will contain the following information for the period being reported:

- a. Time period covered by the statement;
- b. Participant name;
- c. Personal identification number;
- d. Participant mailing address;
- e. Beginning / ending account balance;
- f. Amount of reimbursement requested (with detail);
- g. Amounts paid with detail;
- h. Pending payments(s) (if applicable)

##### 2. Reports

The Contractor will produce and send to CALHR, reports containing the following information (in electronic format on either CD or DVD media). The reports must be received by the 10th of the month following the production of the monthly reimbursement files.

- a. Monthly Payment Register Report
  - 1) Claim Schedule Number
  - 2) Date Issued
  - 3) Participant Social Security Number
  - 4) Participant Name
  - 5) Participant Street Address
  - 6) Participant City & State
  - 7) Participant Zip Code
  - 8) Reimbursement Amount
  - 9) Warrant Number (reimbursement check number)

## VI. GENERAL INFORMATION (CONTINUED)

### B. PTP (CONTINUED)

- b. Monthly Account Summary Reports
  - 1) Participant Social Security Number
  - 2) Participant Name
  - 3) Pre-Tax Parking Contributions
  - 4) Pre-Tax Parking Reimbursement Paid
  - 5) Balance
  - 6) Pending Claims

The Contractor will produce any additional ad hoc reports that will assist CalHR in the administration of the program and accounts. Any changes to the format and required information must be approved by CalHR. Costs associated with changes in format, report content, etc. required by CalHR will be the Contractor's responsibility.

## VII. QUESTIONNAIRE

### GENERAL

1. Provide the name and address of your company and indicate where your corporate headquarters is located. Please specify the activities that will be performed at this location.
2. Describe the history, organization and ownership of your company. Please provide a copy of your latest financial statement, and current AM Best rating and size status.
3. How is your company organized to serve clients? Provide an organizational chart that shows major departments and groups that would have client service responsibilities for CalHR's insured persons. Which organization would be responsible for overall account management and direction?
4. Do you have a dedicated internal organization responsible for service delivery to large and complex group employer clients?
5. Does your proposal involve a joint venture with other organizations? If so, specify your role(s), the role(s) of the other organizations, and specify who would serve as the primary contact(s) for CalHR.
6. Provide the name, location and a brief biography of the individual(s) from your organization responsible for CalHR's account management and service.
7. Please provide a listing of your 5 largest public and 5 largest private employer clients, for which you provide full recordkeeping for FlexElect, PTP and Administrative Services Only (ASO). Please indicate the total number of covered employees.
9. What percentage of your policyholders stay with you for more than 5 years? How about 10 years?
10. Please provide three current client references and provide a complete listing of all major clients (at or over 5,000 eligible employees) who have terminated their contract with your organization within the past five (5) years.

### MEMBER SERVICES

11. A toll-free number must be installed and maintained specific to CalHR for all participants. Please confirm that you are willing to set up a dedicated toll-free number and dedicated member service unit for the CalHR.
12. What are the customer service unit operating hours? How will after-hour calls be handled?
13. How do you accommodate non-English speaking callers or those with hearing disabilities?
14. Describe the systems / processes the customer service area uses to document and track calls to ensure the timeliness of responses.
15. Provide samples of your brochures, announcement letters and other marketing materials.

## VII. QUESTIONNAIRE (CONTINUED)

### ADMINISTRATION SECTION

16. Describe the proposer's automated system for processing DCRA, MRA, and PTP reimbursement requests and facility where claims will be processed. Include a statement of understanding that participants may fax (by proposer provided toll-free fax number) or mail any and all reimbursement requests and that the claims adjudication will be performed in a facility located in the United States.
17. Describe the administrative procedures for DCRA, MRA, and PTP reimbursement request adjudication. Give the average time for adjudication of reimbursement requests and provide a sample reimbursement request (claim) form.
18. Provide a sample of an account statement which will be issued to participants.
19. Provide a sample(s) of a letter(s) which will be sent to participants when a reimbursement request is unable to be paid by the proposer.
20. Provide a sample of an account summary report.
21. Provide a sample of a payment register report.
22. Describe how the proposer's automated DCRA, MRA, and PTP system provides for protection of participant account information on three different levels:
  - a. System level security
  - b. File level security, and
  - c. Access level security
23. If any subcontractors are to be used, each shall be identified in the proposal and the work to be performed shall be described. Any additional or substituted subcontractors will require the State's prior consent.
24. Describe how the proposer's DCRA, MRA, and PTP recordkeeping system will handle negative deposits (reversal of deposits).
25. Describe how the proposer's DCRA and MRA recordkeeping system will handle multiple deposits in a single reporting period.
26. Describe how the proposer's DCRA and MRA recordkeeping system will handle newly eligible enrollees who enroll outside of the open enrollment period.
27. Describe how the proposer's MRA recordkeeping system will handle manual deposits as a result of COBRA participation.
28. Describe how the proposer's recordkeeping system will identify contribution increases / decreases for the MRA which result in changes to the annual contribution amount.

## VII. QUESTIONNAIRE (CONTINUED)

29. Describe how the proposer will handle customer service for the employees participating in the reimbursement accounts. Give details regarding the proposer's toll-free telephone number including the hours of operation and the number of employees answering calls at any given time. Describe in detail the type of information customer service staff will have access to in order to answer participant inquiries.
30. Describe how the proposer will provide a PIN to each participant and the type of personal account information that will be made available. Describe how each participant may access the account using a PIN (e.g., phone, Web site, etc.).
31. Describe the proposer's ability to administer added flexible benefit programs, other than the administration of a DCRA and/or MRA. The proposer must have experience with the administration of more comprehensive flexible benefit programs.
32. What Program enhancements might the bidders propose for the FlexElect and PTP Programs and what would the cost be to implement these enhancements?
33. Does your proposal deviate from the CalHR's current contract? If so, where / how?

### QUALITY ASSURANCE

34. Describe your company's quality assurance program / procedures. Include comments related to program design, internal quality procedures for customer service, and availability of resources to support the provision of quality services.
35. Do you conduct participant satisfaction surveys? If yes, complete the following:
  - Are surveys conducted on an employer-specific or aggregate basis? How often?
  - Are surveys conducted by telephone or by printed questionnaires sent to participants?
36. Do you agree to conduct customer surveys and provide results without additional costs to the CalHR? Are you willing to conduct customer surveys exclusively of the CalHR's population enrolled in your plan without additional cost to the CalHR? Are you willing to have this survey's results made part of any performance standards measurement?

### IMPLEMENTATION

37. What is the minimum lead time you believe necessary to implement this plan for the State of California participants? Provide a timeline for plan implementation.
38. Describe how you would handle the implementation of a group as large and geographically diverse as the State of California. Include information on the responsibility of the State of California, how you would educate employees about their benefits, and how you would manage employee enrollment, including a preliminary communication plan.

## VII. QUESTIONNAIRE (CONTINUED)

39. What capabilities do you have which can be engaged by the CalHR to support the marketing and training of the FlexElect and PTP plans when needed?
40. Is there any cost increase due to reporting services for each program?
41. Any additional service which you feel that you can perform that has not been requested?

### PERFORMANCE GUARANTEE:

42. Please confirm that you will be agreeable to entering into a performance guarantee arrangement.
43. Please indicate what portion of your core fee you will be willing to put "at risk", if any, subject to the terms of a performance guarantee (terms of which will be determined at a later date):  
Percentage of Fee: \_\_\_\_\_%
44. Please provide a sample performance guarantee agreement.
45. What percentage of your cases has performance guarantees? How many of those have you paid refunds on in the last three years?

### CONDITIONS

46. Do You Agree to State's Language – See Section VIII for General Terms and Conditions.

YES \_\_\_\_\_ Signature: \_\_\_\_\_



## VIII. A. GENERAL TERMS & CONDITIONS

The following language with any updates as required by the Department of General Services shall be incorporated in the final contract(s) that is/are awarded, upon conclusion of the bid.

1. **APPROVAL:** This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. **ASSIGNMENT:** This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. **AUDIT:** Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896).
5. **INDEMNIFICATION:** Contractor agrees to indemnify, defend and hold harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. **DISPUTES:** Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. **TERMINATION FOR CAUSE:** The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

## VIII. A. GENERAL TERMS & CONDITIONS

8. **INDEPENDENT CONTRACTOR:** Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
9. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.
10. **CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 304 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
11. **TIMELINESS:** Time is of the essence in this Agreement.
12. **COMPENSATION:** The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
13. **GOVERNING LAW:** This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
14. **ANTITRUST CLAIMS:** The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.
  - a. The Government Code Chapter on Antitrust claims contains the following definitions:
    - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

## VIII. A. GENERAL TERMS & CONDITIONS (CONTINUED)

- 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
- b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
- c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.
15. **UNENFORCEABLE PROVISION:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
16. **UNION ACTIVITIES:** For all contracts, except fixed price contracts of \$50,000 or less, the Contractor acknowledges that:
- By signing this agreement Contractor hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this agreement and agrees to the following:
- a. Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
- b. No state funds received under this agreement will be used to assist, promote or deter union organizing.
- c. Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.

## VIII. A. GENERAL TERMS & CONDITIONS (CONTINUED)

- d. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.

## VIII B. SPECIAL TERMS & CONDITIONS

1. **PRELITIGATION DISPUTE RESOLUTION PROCESS:** Any claim that the contractor may have regarding the performance of this agreement, including, but not limited to, claims for additional compensation, extension of time, shall be submitted to the Department of Human Resources, Benefits and Training Division within ten (10) days of discovery of the problem. Within ten (10) days of this filing, the CalHR shall meet with the Contractor and Program Coordinator for purposes of resolving the dispute. Should the Contractor disagree with the decision, the Contractor may appeal to the CalHR Director or designee with fifteen (15) working days of the decision. The CalHR Director, or designee, shall meet with the Contractor to review the issues raised. A written decision signed by the Director or designee shall be returned to the Contractor within thirty (30) days of the meeting. The decision of the CalHR Director or designee shall be final. Nothing in this section shall constitute a waiver by the Contractor to seek enforcement of any right under this Agreement after the above dispute resolution procedures have been exhausted.
2. **AGENCY LIABILITY:** The Contractor warrants by execution of this Agreement that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.
3. **SUBCONTRACTORS:** Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.
4. **TERMINATION OF AGREEMENT:**
  - a. The State reserves the right to terminate this Agreement without cause upon thirty (30) days advanced notice. The Contractor shall be reimbursed for the rate due and reasonable expenses incurred up to the date of termination. Except for these amounts, the State will have no liability to the Contractor or any member of the Contractor's Provider Network for any amount which the Contractor may have been due during the remaining term of the Agreement after the termination date of the Agreement.
  - b. The State may terminate any part of the total Agreement on ten (10) days written notice to the Contractor because of:
    - 1) Nonperformance by the Contractor, and/or
    - 2) Noncompliance of Audit Findings, as determined by the CalHR or its representatives.

## VIII B. SPECIAL TERMS & CONDITIONS (CONTINUED)

- c. Should the CalHR elect to terminate this Agreement at the end of an Agreement term, it shall provide the Contractor with at least 120 days advance written notice of its intent to terminate the Agreement. Should the Contractor elect not to renew this Agreement, the Contractor shall provide the CalHR with at least 180 days advance written notice of its intent to terminate the Agreement.
- d. Contractor's authority to terminate this agreement is expressly limited to the following condition: if, despite the existence of a duly enacted State Budget, the State fails or refuses to pay monthly fees, in the amounts and manner required in Exhibit B, BUDGET DETAIL AND PAYMENT PROVISIONS, provided that the CalHR has been duly notified of such failure (and is billed for monthly fees, if applicable) and at least 60 days have elapsed since the date of notification.
- e. If for any reason the CalHR or Contractor terminates this Agreement, all services end as of the date of termination and the Contractor is released from all further obligations of this Agreement, except for those services started before or as of the effective date of the termination. Upon receipt of notice of termination by the Contractor, it shall:
  - 1) Prepare to terminate and mitigate costs for all subcontracts related to the terminated portion(s) of the contract, or the contract in its entirety, and
  - 2) Take any and all action(s) necessary to protect, secure and maintain the property, data, and/or information in the Contractor's or subcontractor(s) possession that the State has provided the Contractor or, has an interest in.
- f. Contractor shall not be relieved of any obligation arising under this Agreement due to a labor strike or other work stoppage by Contractor's work force or the work force of any subcontractor engaged by contractor to provide services under this Agreement.

### 5. PROVISIONS:

If any provision of this Agreement shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of the Agreement, but the same shall be construed and enforced as if said illegal or invalid provision has never been inserted herein.

### AMENDMENTS

This Agreement may be amended at the discretion of the CalHR. Any changes to this Agreement shall be agreed to in writing by both parties. Persons designated to have authority in providing instruction to facilitate changes to this Agreement are listed in Exhibit C, Scope of Work. Persons authorized to provide daily operation instructions are also listed in Exhibit C, Scope of Work. The CalHR may amend either listing pursuant to a written notification.

## VIII B. SPECIAL TERMS & CONDITIONS (CONTINUED)

### AGREEMENT RENEWAL

The term of this Agreement is as follows: Flex 01/01/2015 – 07/31/2017; PTP 01/01/2015 – 12/31/2016, all with the option of three (3) one-year extensions. The CalHR reserves the right to negotiate the premium rates if it exercises any or all of the one-year extensions using claims experience and industry trends.

### HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT (HIPAA) REQUIREMENTS

While performing the requirements set forth in this Agreement, the Contractor and its subcontractor(s) certify that they currently comply and/or will comply with the required standards of the Health Insurance Portability and Accountability Act of 1996 (reference Public Law 104-91, Dated August 21, 1996) by the required HIPAA implementation dates. The Contractor shall be HIPAA compliant and provide CalHR with evidence of compliancy. In addition, the Contractor shall sign a HIPAA Business Associate agreement with CalHR.

### LABOR STRIKE

Contractor shall not be relieved of any obligation arising under this Agreement due to a labor strike or other work stoppage by Contractor's work force or the work force of any subcontractor engaged by Contractor to provide services under this agreement.

### INDEMNIFICATION

Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement. Nothing in this Agreement shall preclude the State from participating in and/or providing its own defense. However, Contractor shall not be relieved from its obligation to indemnify, defend and save harmless the State, its officers, agents and employees even though the State participates in and/or provides its own defense.

### AUTHORIZATION TO UTILIZE STATE DATA

The State of California is the owner of all information / data and may, under specially pre-approved circumstances, share data with the Contractor for purposes of mailing information and enrollment materials specific to the State's Group Legal Services Insurance Program.

As the custodian of information, the Contractor is responsible for complying with any and all security policies and procedures established by the owner and the Agency Information Security Office of the information / data as described in State Administrative Manual (SAM), Section 5300 and 5302.2. Refer to

[http://www.documents.dgs.ca.gov/sam/SamPrint/new/m424dec13/chap\\_5300\\_sam/5320.2.pdf](http://www.documents.dgs.ca.gov/sam/SamPrint/new/m424dec13/chap_5300_sam/5320.2.pdf)

## VIII. B. SPECIAL TERMS & CONDITIONS (CONTINUED)

The Contractor must promptly investigate incidents involving the unauthorized or accidental modification, destruction, disclosure, loss, or access to automated files and databases, as well as incidents involving loss, damage, or misuse of information assets. The Contractor must notify CalHR and complete a Security Incident Reporting Form, State Information Management Manual (<http://www.dof.ca.gov/HTML/IT/SIMM/SIMM.htm>) immediately upon detection/discovery of the following incidents:

1. Unauthorized intentional release, modification, or destruction of confidential or sensitive information or the theft of such information, including information stolen in conjunction with the theft of a computer or data storage device;
2. Use of a state information asset in commission of a crime;
3. Tampering, interference, damage, or unauthorized access to computer data and computer systems as described in the Comprehensive Computer Data Access and Fraud Act found in the Penal Code of California, Section 502 (which can be viewed via <http://www.leginfo.ca.gov/calaw.html>); or
4. Intentional damage or destruction of State information assets, or the theft of such assets, with an estimated value in excess of \$2,500;

The Contractor agrees to indemnify, defend and hold harmless the State, its officers, agents and employees for data errors, omissions, destruction of data or other faults, and/or damages caused by or related, directly or indirectly, to failures on the part of Contractor or Contractor's designee(s), occurring with Contractor or Contractor's designee(s) electronic data system, including but not limited to: Year 2000 compliance problems, security breaches, data transfer errors, data warehousing errors, omissions or misuse, data theft, eligibility and accounting data errors, and identify theft.

The Contractor must report to the CalHR known instances in which personal information, as defined in the Civil Code of the State of California, Section 1798.3 (see above reference URL), has been distributed or obtained by any person in a manner not in accordance with the Information Practices Act, the California Public Records Act, and California Civil Code Section 1785.10.



## VIII. B. SPECIAL TERMS & CONDITIONS (CONTINUED)

### BUDGET CONTINGENCY CLAUSE

- A. The parties acknowledge and agree that the State's duty to issue payment on the invoices under this Agreement shall not arise unless and until there is a duly enacted State budget that provides the legally required spending authority to pay said invoices. Failure by the State to pay invoices during periods of time when there is no State budget shall not constitute a breach of this Agreement and provides no grounds for termination by Contractor. The Contractor agrees to withhold termination proceedings for ninety (90) days following notification by the State that it is unable to make invoice payments due to a lack of an enacted State budget.
- B. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the state shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- C. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

## VIII. C. STATE'S STANDARD AGREEMENT PROVISIONS & GENERAL TERMS & CONDITIONS

Certain portions of the Agreement are required by law or policy. These standard agreement provisions and general terms and conditions are included in this Section and are non-negotiable.

1. **Americans With Disabilities Act:** The Contractor and its subcontractors assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. 12101 et seq.).
2. **Contingency Fee:** The Contractor warrants, by execution of this Agreement, that no person or selling agency shall be employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingency fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. Barney & Barney is exclusive broker of record for this solicitation.

For breach or violation of this warranty, CalHR shall have the right to annul this Agreement without liability, pay only for the value of the work actually performed, or in its discretion, to deduct from the Agreement work actually performed, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingency fee.

3. **Disputes:** Any claim that the Contractor may have regarding the performance of this Agreement, including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Director of CalHR, within 30 days of its accrual. The State and the Contractor shall then attempt to negotiate a resolution of such claim and process an amendment to this Agreement to implement the terms of any such resolution. The Contractor shall continue with the responsibilities under this Agreement during any dispute.

## IX. PROTEST PROVISIONS

The following Protest Provisions will apply to this bid, if necessary.

**Protests to the Award:** Protests to the award of the Agreement are limited to proposing bidders. The protest must be filed with Barney & Barney, LLC. after notice of intent to award the Agreement, but before the actual award. The protesting bidder has five (5) working days from the date of protest to file a detailed written statement of the protest grounds if the original protest did not contain the complete grounds for the protest.

Should a bidder file a protest, please note that protests to the award of the contract are limited only to proposing bidders and must be received by 5:00 P.M. PST of the last day of the protest period. Protesting bidders must file with Barney & Barney, LLC. a full and complete written statement specifying the grounds for the protest. The protest filing period commences on the date of the notification of intent to award, which is five (5) working days prior to the contract award date. It is expected that the contract award date will be sometime around August 1st. Protest statements received after 5:00 P.M. PST on the last day of the protest period will be rejected, as will the bidders protest. If the written arguments are not submitted according to this procedure, the protest may be disqualified.

Protests shall be in writing and delivered to: Barney & Barney, LLC  
ATTN: Dave Cannon and/or Chris Williams  
1999 Harrison St., Ste. 1230  
Oakland, CA 94612

Protests may be sent by regular mail, fax, courier or personal delivery. Protesting bidders should include their fax numbers, if applicable. A courtesy copy of any protest is to also be sent to CalHR at 1515 S St., Suite 400 North Building, Sacramento, CA. 95811, Attention: Darlene Schell, Benefits and Training Division, and Contracts Management Unit, Attention: Terri Yee.

Protests are limited to the following grounds:

1. CalHR failed to follow the procedures stated in the RFP.
2. CalHR failed to apply correctly the standards for reviewing the format requirements or failed to evaluate the proposals as specified in the RFP.

## X. EXHIBITS

See Attachments.