



Lori Jones / Dan Kaplan  
Interim Co-Directors

Thomas L. Berkley Square  
2000 San Pablo Avenue, Fourth Floor  
Oakland, California 94612  
510-2712-9100 / Fax: 510-271-9108  
[ssadirector@acgov.org](mailto:ssadirector@acgov.org)  
<http://alamedasocialservices.org>

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March 2, 2011

Honorable Board of Supervisors  
Administration Building  
Oakland, CA 94612

Dear Board Members:

**SUBJECT:** Approval of a new Standard Services Agreement with International Business Machines (IBM) to complete design work for integrating data within the Social Services Agency's Integrated Reporting System (SSIRS)

**RECOMMENDATION:**

It is recommended that your Board:

- Approve and authorize a new Standard Agreement contract with International Business Machines Corporation (IBM), (PC #6167, Principal: Sam Palmisano, CEO; Location: Sacramento, CA), for the period of April 1, 2011 through June 30, 2011 for a maximum total of \$75,000 for the final architecting of the SSIRS data warehouse.

**SUMMARY/DISCUSSION:**

This letter requests action by your Board to approve and authorize a new standard services agreement with IBM for the provision of final architecting of the SSIRS data warehouse system. With your Board's approval in 2008, SSA entered into an initial contract with IBM to develop and implement the SSIRS data warehouse for tracking program performance. Data from the two largest SSA systems, CalWIN (economic benefits) and CWS (child welfare), have been mapped and set up for full use in the data warehouse. This contract will allow comparable work to be completed for data from additional systems that have been loaded into SSIRS, and will allow for the integration of Adoptions, IHSS, Welfare to Work, and Juvenile Probation data.

SSA staff will also receive extensive knowledge transfer from IBM that will allow staff to perform complex task for all future systems added to SSIRS.

**SELECTION CRITERIA/PROCESS:**

*SSA is recommending your Board's approval of the current technology and service purchase with IBM based on previous Board approvals and authorizations on September 30, 2008 including first, second and 3rd amendments on April 28, 2009 (File #24649, Item #45), November 3, 2009 (File #24649, Item #2), May 4, 2010 (File # 26127, Item # 26) and for original purchase and additional enhancements of the IBM data warehouse – SSIRS. This additional service purchase will allow SSA to complete and make operational the SSIRS – data warehouse under 100% SSA staffing and management.*

*Additionally, due to the utilization of Federal funds for this project, a waiver of local procurement criteria (#F229) was approved by the Office of Contract Compliance. GSA Purchasing has issued a finding approving the sole sourcing of this contract to IBM.*

**FINANCING:**

Funding in the amount of \$75,000 for this service agreement is currently available within the approved FY 2010 – 2011 Agency budget. There are no changes to net County Cost.

Sincerely,



Daniel B. Kaplan  
Interim Co-Director



Lori Jones  
Interim Co-Director

Attachment: One Set of five (5) Standard Service Agreements for Board President signature

- c: County Administrator
- Auditor-Controller
- County Counsel

## REQUEST TO ENCUMBER CONTRACT FUNDS OR TO LIQUIDATE ENCUMBERED FUNDS

### PART I: REQUEST FROM CONTRACTING DEPARTMENT

Contractor's Name: International Business Machines Corp. (IBM)

Contractor's Tax ID: 130871985 Contractor's Vendor ID: 13283

Description of Contract: Data Warehouse and Business Intelligence Technologies

Master Contract #: N/A Procurement Contract #: 6167

Procurement Contract Begin Date: 4/1/11 Expire Date: 6/30/11

Elation Project Info: Sub-Contractor Compliance N/A Labor Compliance N/A

Board Waiver # N/A GSA Waiver # (pending) Federal Fund Waiver # 229

#### A. ENCUMBER FUNDS IN A NEW PURCHASE ORDER

Date of Board Minute Order: \_\_\_\_\_ File/Item/Contract Number: \_\_\_\_\_

Total Amount Authorized By Board: \$75,000 Amount to be Encumbered: \$75,000

#### B. ADD FUNDS TO AN EXISTING PURCHASE ORDER PO Number: \_\_\_\_\_

Date of Board Minute Order: \_\_\_\_\_ File/Item/Contract Number: \_\_\_\_\_

Total Amount Authorized By Board: \$ \_\_\_\_\_ Amount to be Encumbered: \$ \_\_\_\_\_

#### C. LIQUIDATE FUNDS FROM A PURCHASE ORDER

Purchase Order Number: \_\_\_\_\_ Amount to be Liquidated: \_\_\_\_\_

#### ACCOUNTING INFORMATION

Business Unit	Account	Fund	Dept	Program	BY	Subclass	Proj/Grant	Amount
SOCSA	610292	10000	320100	30000	2011			\$ 75,000
							Total	\$ 75,000

Send Response to: Kathy Chen QIC: 20203 Phone: 267-(2)9459

Authorized Signature:  Department: Finance Date: 4/14/11

### PART II: RESPONSE FROM AUDITOR-CONTROLLER

The Auditor-Controller encumbered \_\_\_\_\_ in a new PO. The PO Number is \_\_\_\_\_

The Auditor-Controller added \_\_\_\_\_ to PO Number \_\_\_\_\_

The Auditor-Controller liquidated \_\_\_\_\_ from PO Number \_\_\_\_\_

This form is being returned for you due to insufficient funds in the appropriation account.

The following information is needed before this request can be processed.

Signature of Contract Processor \_\_\_\_\_ Date: \_\_\_\_\_

**QUESTIONNAIRE FOR DETERMINING THE WITHHOLDING STATUS**

INSTRUCTIONS: This questionnaire is to be completed by the County department for services contracts and must be included as part of the contract package submitted to Human Resource Services Department (HRSD). Be sure to answer all of the questions in Sections I and II and to complete the certifications on page 2. Sections III and IV contain supplemental questions to be answered for contractors in certain service categories.

CONTRACTOR NAME: International Business Machines Corporation (IBM) DEPT #: 320100

TITLE/SERVICE: Implementation Credits for Identity Insights

DEPT. CONTACT: Kathy Chen PHONE: 510-267-9459

**I. INFORMATION ABOUT THE CONTRACTOR** YES NO

- 1. Is the contractor a corporation or partnership? (x) ( )
- 2. Does the contractor have the right per the contract to hire others to do the work agreed to in the contract? (x) ( )

If the answer to BOTH questions is YES, provide the employer ID number here: 130871985

No other questions need to be answered. Withholding is not required.

If the answer to question 1 is NO and 2 is YES, provide the individual social security number here: \_\_\_\_\_

No other questions need to be answered. Withholding is not required.

If the answer to question 2 is NO, continue to Section II.

**II. RELATIONSHIP OF THE PARTIES** YES NO

- 1. Does the County have the right to control the way in which the work will be done, i.e., will the County be able to specify the sequence of steps or the processes to be followed if it chooses to do so? ( ) ( )
- 2. Is the contractor restricted from performing similar services for other businesses while he is working for the County? ( ) ( )
- 3. Will the contractor be working for more than 50% of the time for the County (50% = 20 hrs/wk; 80 hrs/mo)? ( ) ( )
- 4. Is the relationship between the County and the contractor intended to be ongoing? ( ) ( )

**III. FOR CONSULTANTS, PROJECT MANAGERS, PROJECT COORDINATORS**

- 1. Is the contractor being hired for a period of time rather than for a specific project? ( ) ( )
- 2. Will payment be based on a wage or salary (as opposed to a commission or lump sum)? ( ) ( )

**IV. FOR PHYSICIANS, PSYCHIATRISTS, DENTISTS, PSYCHOLOGISTS**

- 1. Will the agreement be with an individual who does not have an outside practice? ( ) ( )
  - 1.a. Will the contractor work more than an average of ten hours per week? ( ) ( )

IF THE ANSWER TO 1.a IS YES, ANSWER QUESTIONS 1.b.

- 1.b. Will the County provide more than 20% of the contractor's income? ( ) ( )
- 2. If the answer to either question 1.a, or if required, question 1.b is NO, the entire answer is NO.

A "yes" answer to any of the questions in Section II, or, if applicable, Sections III or IV constitutes justification for paying the contractor through the payroll system as an "employee for withholding purposes."

**CERTIFICATIONS:**

I hereby certify that the answers to the above questions accurately reflect the anticipated working relationship for this contract.

  
 \_\_\_\_\_  
 Contractor Signature

  
 \_\_\_\_\_  
 Agency/Department Head or Designee

4-12-2011  
 \_\_\_\_\_  
 Date

4/13/11  
 \_\_\_\_\_  
 Date

**\* HRSD APPROVAL REQUIRED FOR ALL STANDARD SERVICES AGREEMENTS:**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Title: \_\_\_\_\_

\* Note: Not applicable. Signature is not required according to current County policy.

**COUNTY OF ALAMEDA  
STANDARD SERVICES AGREEMENT**

This Agreement, dated as of April 1, 2011, is by and between the County of Alameda, hereinafter referred to as the "County", and International Business Machines Corporation (IBM), hereinafter referred to as the "Contractor".

**WITNESSETH**

Whereas, County desires to obtain Implementation Credits for Identity Insights services which are more fully described in Exhibit A hereto ("Implementation Credits for Identity Insights Services"); and

Whereas, Contractor is professionally qualified to provide such services and is willing to provide same to County; and

Now, therefore it is agreed that County does hereby retain Contractor to provide Implementation Credits for Identity Insights Services, and Contractor accepts such engagement, on the General Terms and Conditions / Additional Provisions hereinafter specified in this Agreement, attached hereto, and the following described Exhibits, all of which are incorporated into this Agreement by this reference:

- Exhibit A                    Statement of Work
- Exhibit B                    Payment Terms & Budget Summary
- Exhibit C                    Insurance Requirements
- Exhibit D                    Debarment and Suspension Certification
- Exhibit E                    County Of Alameda Contract Compliance Reporting Requirements
- Exhibit F                    IBM Customer Agreement
- Exhibit G                    IBM Agreement for Exchange of Confidential Information
- Appendix A:                A & B Reports
- Federal Grant Funds:    SLEB Waiver approved #229

The term of this Agreement shall be from April 1, 2011 through June 30, 2011.

The compensation payable to Contractor hereunder shall not exceed (\$75,000.00), Seventy-five thousand dollars, for the term of this Agreement.

**IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.**

COUNTY OF ALAMEDA

INTERNATIONAL BUSINESS  
MACHINES CORPORATION

By: \_\_\_\_\_  
Signature

By: Cinda J. Garrett  
Signature

Name: \_\_\_\_\_  
(Printed)

Name: CINDA J. GARRETT  
(Printed)

Title: President of the Board of Supervisors

Title: Quality Assurance Mgr.

Date: 4-12-2011

Approved as to Form:

By: \_\_\_\_\_  
County Counsel Signature

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

APPROVED AS TO FORM  
RICHARD E. WINNIE

By: Richard E. Winnie

## GENERAL TERMS AND CONDITIONS

1. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an independent contractor. Contractor is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor.

Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such amounts.

In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of County.

Contractor does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with currently approved methods and practices in his/her field and that the sole interest of County is to insure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

Notwithstanding the foregoing, if the County determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, County may upon two week's notice to Contractor, withhold from payments to Contractor hereunder federal and state income taxes and pay said sums to the federal and state governments

2. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The County may participate in the defense of any such claim without relieving Contractor of any obligation hereunder.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Alameda County Employees' Retirement Association (ACERA) or California Public Employees' Retirement System (PERS) to be eligible for enrollment in ACERA and PERS as an employee of County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for ACERA and PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

3. **INSURANCE AND BOND:** Contractor shall at all times during the term of the Agreement with the County maintain in force those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein.
4. **PREVAILING WAGES:** Pursuant to Labor Code Sections 1770 et seq., Contractor shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.
5. **WORKERS' COMPENSATION:** Contractor shall provide Workers' Compensation insurance, as applicable, at Contractor's own cost and expense and further, neither the Contractor nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.
6. **CONFORMITY WITH LAW AND SAFETY:**

- a. In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Contractor shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any of Contractor's failures to comply with such laws, ordinances, codes and regulations.
  - b. Accidents: If a death, serious personal injury or substantial property damage occurs in connection with Contractor's performance of this Agreement, Contractor shall immediately notify the Alameda County Risk Manager's Office by telephone. Contractor shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Contractor's sub-Contractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff were involved.
  - c. Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.
7. DEBARMENT AND SUSPENSION CERTIFICATION: (Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).
- a. By signing this agreement and Exhibit D, Debarment and Suspension Certification, Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.
  - b. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:
    - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntary excluded by any federal department or agency;
    - (2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred,

suspended, declared ineligible, or voluntarily excluded from participation in such transaction.

8. PAYMENT: For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit A & B hereto.
9. TRAVEL EXPENSES: Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.
10. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.
11. OWNERSHIP OF DOCUMENTS: Contractor hereby assigns to the County and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the County, the Contractor, the Contractor's sub-Contractors or third parties at the request of the Contractor (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

Contractor also hereby assigns to the County and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor's Information System, respecting in any way the subject matter of this Agreement.

Contractor shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. Contractor agrees to take such further steps as may be reasonably requested by County to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor hereby grants the County and any assignee of the County an express royalty – free license to retain and use said Documents and Materials. The County's rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and whether or not Contractor's services as set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

In Contractor's contracts with other Contractors, Contractor shall expressly obligate its Sub-Contractors to grant the County the aforesaid assignment and license rights as to that Contractor's Documents and Materials. Contractor agrees to defend, indemnify and hold the County harmless from any damage caused by a failure of the Contractor to obtain such rights from its Contractors and/or Sub-Contractors.

Contractor shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the Contractor and incorporated into the work as set forth in Exhibit "A", and shall defend, indemnify and hold the County harmless from any claims for infringement of patent or

copyright arising out of such selection. The County's rights under this Paragraph 11 shall not extend to any computer software used to create such Documents and Materials.

12. CONFLICT OF INTEREST; CONFIDENTIALITY: The Contractor covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Contractor represents to and agrees with the County that Contractor has no present, and will have no future, conflict of interest between providing the County services hereunder and any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the County, as determined in the reasonable judgment of the Board of Supervisors of the County.

The Contractor agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the County will be kept confidential and not be disclosed to any other person. The Contractor agrees to immediately notify the County by notices provided in accordance with Paragraph 13 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the County hereunder.

13. NOTICES: All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County: COUNTY OF ALAMEDA  
Social Services Agency  
2000 San Pablo Ave. 4<sup>th</sup> floor  
Oakland, CA 94612  
Attn: Don Edwards

To Contractor: International Business Machines  
2710 S. Gateway Oaks Dr, Suite 200  
Sacramento, CA  
Attn: Rena Burns, Client Executive

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

14. USE OF COUNTY PROPERTY: Contractor shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
15. EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS:  
Contractor assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.
  - a. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
  - b. Contractor shall, if requested to so do by the County, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual

orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.

- c. If requested to do so by the County, Contractor shall provide the County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
  - d. Contractor shall recruit vigorously and encourage minority - and women-owned businesses to bid its subcontracts.
  - e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.
  - f. The Contractor shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.
16. **DRUG-FREE WORKPLACE:** Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the Contractor within five days thereafter shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement
17. **AUDITS; ACCESS TO RECORDS:** The Contractor shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or information as the County may require with regard to any such expenditure or disbursement charged by the Contractor.

The Contractor shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the Contractor in the performance of this Agreement. If such books and records are not kept and maintained by Contractor within the County of Alameda, California, Contractor shall, upon request of the County, make such books and records available to the County for inspection at a location within County or Contractor shall pay to the County the reasonable, and necessary costs incurred by the County in inspecting Contractor's books and records, including, but not limited to, travel, lodging and subsistence costs. Contractor shall provide such assistance as may be reasonably required in the course of such inspection. The County further reserves the right to examine and reexamine said

books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the County, and the Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the County makes the final or last payment or within three (3) years after any pending issues between the County and Contractor with respect to this Agreement are closed, whichever is later.

18. DOCUMENTS AND MATERIALS: Contractor shall maintain and make available to County for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 11 of this Agreement. Contractor's obligations under the preceding sentence shall continue for three (3) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by County), and Contractor shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for three (3) years following the County's last payment to Contractor under this Agreement.
19. TIME OF ESSENCE: Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
20. TERMINATION: The County has and reserves the right to suspend, terminate or abandon the execution of any work by the Contractor without cause at any time upon giving to the Contractor prior written notice. In the event that the County should abandon, terminate or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for its Implementation Credits for Identity Insights Services shall not exceed \$75,000.00 payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment.
21. SMALL, LOCAL AND EMERGING BUSINESS (SLEB) PARTICIPATION: Contractor has been approved by County to participate in contract without SLEB participation (*attach Federal Grant Funds SLEB Waiver #F229*). As a result, there is no requirement to subcontract with another business in order to satisfy the County's Small and Emerging Locally owned Business provision.

**However, if circumstances or the terms of the contract should change**, Contractor may be required to immediately comply with the County's Small and Emerging Local Business provisions, including but not limited to:

- a. Contractor must be a certified small or emerging local business(es) or subcontract a minimum 20% with a certified small or emerging local business(es).

- b. SLEB subcontractor(s) is independently owned and operated (i.e., is not owned or operated in any way by Prime), nor do any employees of either entity work for the other.
- c. Small and/or Emerging Local Business participation and current SLEB certification status must be maintained for the term of the contract. Contractor shall ensure that their own certification status and/or that of participating subcontractors (as is applicable) are maintained in compliance with the SLEB Program.
- d. Contractor shall not substitute or add any small and/or emerging local business(s) listed in this agreement without prior written approval from the County. Said requests to substitute or add a small and/or emerging local business shall be submitted in writing to the County department contract representative identified under Item #13 above. Contractor will not be able to substitute the subcontractor without prior written approval from the Alameda County Auditor Controller Agency, Office of Contract Compliance (OCC).
- e. All SLEB participation, except for SLEB prime contractor, must be tracked and monitored utilizing the Elation compliance System.

County will be under no obligation to pay contractor for the percent committed to a SLEB (whether SLEB is a prime or subcontractor) if the work is not performed by the listed small and/or emerging local business.

For further information regarding the Small Local Emerging Business participation requirements and utilization of the Alameda County Contract Compliance System contact the County Auditor- Controller's Office of Contract Compliance (OCC) located at 1221 Oak St., Rm. 249, Oakland, CA 94612 at Tel: (510) 891-5500, Fax: (510) 272-6502 or via E-mail at [ACSLEBcompliance@acgov.org](mailto:ACSLEBcompliance@acgov.org).

- 22. **FIRST SOURCE PROGRAM:** For contracts over \$100,000, Contractor shall provide County ten (10) working days to refer to Contractor, potential candidates to be considered by Contractor to fill any new or vacant positions that are necessary to fulfill their contractual obligations to the County that Contractor has available during the contract term before advertising to the general public.
- 23. **CHOICE OF LAW:** This Agreement shall be governed by the laws of the State of California.
- 24. **WAIVER:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any

other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

25. ENTIRE AGREEMENT: This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between County and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.
26. HEADINGS herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.
27. ADVERTISING OR PUBLICITY: Contractor shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of County in each instance.
28. MODIFICATION OF AGREEMENT: This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.
29. ASSURANCE OF PERFORMANCE: If at any time County believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the Services as required by this Agreement, County may request from Contractor prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
30. SUBCONTRACTING/ASSIGNMENT: Contractor shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without the County's prior written approval.
  - a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.
  - b. Contractor shall use the subcontractors identified in Exhibit A and shall not substitute subcontractors without County's prior written approval.

- c. Contractor shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Contractor and its subcontractors.
- 
- 31. SURVIVAL: The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 11), and Conflict of Interest (Paragraph 12), shall survive termination or expiration.
  - 32. SEVERABILITY: If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
  - 33. PATENT AND COPYRIGHT INDEMNITY: Contractor represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software ("Contractor Products") provided to County under this Agreement infringe any patent, copyright or other proprietary right. Contractor shall defend, indemnify and hold harmless County of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, "Losses") arising out of or in connection with an assertion that any Contractor Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. County will: (1) notify Contractor promptly of such claim, suit or assertion; (2) permit Contractor to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable Contractor to do so. Contractor shall not agree without County's prior written consent, to any settlement, which would require County to pay money or perform some affirmative act in order to continue using the Contractor Products.
    - a. If Contractor is obligated to defend County pursuant to this Section 33 and fails to do so after reasonable notice from County, County may defend itself and/or settle such proceeding, and Contractor shall pay to County any and all losses, damages and expenses (including attorney's fees and costs) incurred in relationship with County's defense and/or settlement of such proceeding.
    - b. In the case of any such claim of infringement, Contractor shall either, at its option, (1) procure for County the right to continue using the Contractor Products; or (2) replace or modify the Contractor Products so that that they become non-infringing, but equivalent in functionality and performance.
    - c. Notwithstanding this Section 33, County retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right.

34. OTHER AGENCIES: Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The Contractor is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the Contractor elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.
35. EXTENSION: This agreement may be extended for two additional one year terms by mutual agreement of the County and the Contractor
36. SIGNATORY: By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

[END OF GENERAL TERMS AND CONDITIONS]

## Additional Provisions

1. **Governing Terms:**

The General Terms and Conditions (pages 5 to 16) do not apply to this contract.

The IBM Customer Agreement (Exhibit F), the Additional Terms and Conditions to the IBM Customer Agreement, the IBM Agreement for Exchange of Confidential Information (Exhibit G), the Statement of Work for the Implementation Credits for Identity Insights Services (Exhibit A) and all exhibits to the preceding documents shall be the only terms governing the rights and obligations between IBM and the County.

In the event of any inconsistency among these documents, the following order of precedence shall apply:

- 1) The Statement of Work for the Implementation Credits for Identity Insights
- 2) The IBM Customer Agreement
- 3) The Additional Terms and Conditions to the IBM Customer Agreement
- 4) The IBM Agreement for Exchange of Confidential Information

2. **Additional Terms and Conditions to the IBM Customer Agreement (THE "AGREEMENT"):**

- a. **INDEPENDENT Services Provider:** No relationship of employer and employee is created by the Agreement; it being understood and agreed that IBM is an independent contractor. IBM is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by IBM nor for any obligations or liabilities incurred by IBM.
- b. **INDEMNIFICATION:** To the fullest extent permitted by law, IBM shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors and employees from and against any and all third party claims for damages for which IBM is legally liable to that third party, and pay all costs, damages and attorneys' fees that a court finally awards or that are included in a settlement approved by IBM, provided that any such third party claim is attributable to bodily injury, sickness, disease, death or to injury to or destruction of real property or tangible personal property, (collectively, "Liabilities") and further provided that the County shall promptly notify IBM in writing of the claim, and allow IBM to control, and will cooperate with IBM in the defense and any related settlement negotiations, except where such Liabilities are caused by any indemnitee or third party. The County may participate in the defense of any such claim at its own expense without relieving IBM of any obligation hereunder.
- c. **PREVAILING WAGES:** Pursuant to Labor Code Sections 1770 et seq., IBM shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the State Department of

Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute the Agreement.

- d. WORKERS' COMPENSATION: IBM shall provide Workers' Compensation insurance, as applicable, at IBM's own cost and expense and further, neither IBM nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers' Compensation claims arising out of the Agreement.
  - d1. In performing services under the Agreement, IBM shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act that are applicable to IBM as a provider of information technology services.
  - d2. Accidents: If a death, serious personal injury or substantial damage to real property or tangible personal property occurs in connection with IBM's performance of the Agreement, IBM shall immediately notify the Alameda County Risk Manager's Office by telephone. IBM shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with the Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of IBM's sub-Contractor, if any; (3) name and address of IBM's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff was involved.
  - d3. IBM further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.
- e. PAYMENT: For services performed in accordance with the Agreement, payment shall be made to IBM as provided in the Agreement or Statement of Work AMOS-8FAHU7, or any other applicable Transaction Document.
- f. TRAVEL EXPENSES: IBM shall not be allowed or paid travel expenses unless set forth in the Agreement or Statement of Work AMOS-8FAHU7, or any other applicable Transaction Document.
- g. TAXES: Payment of all applicable federal, state, and local taxes on IBM's net income, as well as compliance with social security, withholding and all other wages, salaries, benefits, taxes and demands with regards to IBM's employees, shall be the sole responsibility of IBM.
- h. CONFLICT OF INTEREST; CONFIDENTIALITY: IBM covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under the Agreement. IBM represents and agrees with the County that to the best of its

knowledge and belief IBM has no present, and will have no future, conflict of interest between providing the County services hereunder and any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the County, as determined in the reasonable judgment of the Board of Supervisors of the County.

- i. Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL Worldwide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County: COUNTY OF ALAMEDA  
2000 San Pablo Ave., 4<sup>th</sup> floor  
Oakland, CA 94612  
Attn.: Don Edwards, Assistant Agency Director

To IBM: International Business Machines  
2710-S Gateway Oaks Drive  
Suite 200  
Sacramento, CA 95833  
Attn: Douglas M. Naschke, Client Executive

- j. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS: IBM assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that

no person shall, on the grounds of race, creed, color, disability, sex, or sexual orientation will be prevented from applying for or performing work under the Agreement.

- k. **DRUG-FREE WORKPLACE:** IBM and IBM's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither IBM nor IBM's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If IBM or any employee of IBM is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, IBM within five days thereafter shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of the Agreement
  
- l. **AUDITS; ACCESS TO RECORDS:** IBM shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or information as the County may require with regard to any such expenditure or disbursement charged by IBM.

IBM shall maintain full and adequate records in the performance of the Agreement. If such books and records are not kept and maintained by IBM within the County of Alameda, California, IBM shall, upon request of the County, make such books and records available to the County for inspection at a location within County. The County further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of the Agreement or completion of all work hereunder, as evidenced in writing by the County, and IBM shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the County makes the final or last payment or within three (3) years after any pending issues between the County and IBM with respect to the Agreement are closed, whichever is later. Nothing contained herein shall require IBM to disclose cost, profit and overhead data, including both direct and indirect rates, markups, profit margins or confidential employee records and other trade secret information.

- m. **CHOICE OF LAW:** The Agreement shall be governed by the laws of the state of California.

- 3. **Exhibit E – County of Alameda Contract Compliance Reporting Requirements:** This exhibit doesn't apply to this contract.

County Counsel Signature: \_\_\_\_\_

**Exhibit A****Statement of Work v1.0 – AMOS-8FAHU7****for****Project Name: Implementation Credits for Identity Insights****1. IBM Responsibilities:**

Under this SOW, IBM will undertake the activities described in Exhibit A. IBM will complete architecting the logical and physical model of the following four SSIRS data warehouse programs:

- |                            |                             |
|----------------------------|-----------------------------|
| • VersaForm (JV Probation) | Planned Completion May 2011 |
| • CMIPS (IHSS)             | Planned Completion May 2011 |
| • Smart Database           |                             |
| ○ Employment Services      | Planned completion May 2011 |
| ○ Adoptions                | Planned completion May 2011 |

**2. Information Transfer:**

**Goal:** The goal is to prepare SSA staff to perform “architectural design” on how to build the data architect structure (blueprint of the data warehouse) for future data systems to be integrated into the data warehouse.

**Deliverable:** IBM will complete information transfer to SSA staff: Salozinho (Michael) Fernandes, Celeste Robinson, Randolph Hudson are primary and others as they are needed.

As part of the contracted service delivery under the Implementation Credits for Identity Insights Service Agreement the IBM Consultant - who will be writing the architecture of the data warehouse will provide technical guidance to SSA staff throughout the specific activities to be performed.

The specific aspects of information transfer will be accomplished through:

- A. Table top discussion
- B. On the job learning
- C. On the job training

These strategies will be incorporated in the specific activities of:

- A. Project Management
- B. Assist in Completion of Data Warehouse
- C. Assist in Completion of the DataMart
- D. Assist in Completion of A & B Reports

**3. Project Management, Data Warehouse and DataMart Services, and assistance with A&B reports:****Project Management:**

IBM will provide project management for the IBM responsibilities in this SOW. The purpose of this activity is to provide technical direction and control of IBM project

personnel and to provide a framework for project planning, communications, reporting, procedural and contractual activity. This activity is composed of the following tasks:

a) Planning:

- 1) Review the SOW and the contractual responsibilities of both parties' Project Manager.
- 2) Maintain project communications with SSA Project Manager.
- 3) Coordinate the establishment of the project environment.
- 4) Establish documentation and procedural standards for deliverable materials.
- 5) Assist SSA project manager to prepare and maintain the project plan for the performance of this SOW which will include the product training plan, activities, tasks, assignments, milestones and estimates.
- 6) Review with SSA the hardware required for the performance of this SOW.

b) Project Tracking and Reporting:

- 1) Review project tasks, schedules, and resources and make changes or additions, as appropriate. Measure and evaluate progress against the project plan with SSA Project Manager.
- 2) Review the IBM standard invoice format and billing procedure to be used on the project, with SSA Project Manager.
- 3) Work with SSA Project Manager to address and resolve deviations from the project plan.
- 4) Conduct regularly scheduled project status meetings.
- 5) Report time spent on the project to SSA Project Manager.
- 6) Administer the Project Change Control Procedure with SSA Project Manager.
- 7) Coordinate and manage the technical activities of IBM project personnel.

***Completion Criteria:***

This is an ongoing activity which will be considered complete at the end of the services.

***Deliverable Materials:***

- Weekly Status Report

**Assist in Completion of Data Warehouse:**

- a) Map the source data to the Warehouse for the following six (6) ODS sources:
  - a. CIS
  - b. SSIRS

- c. CMIPS
  - d. CWS
  - e. SMART
  - f. VERSA
- b) Assist in creating the ETL\* Design document from the Warehouse to the DataMart.
- c) Assist in creating the ETL Design document from the ODS to the Warehouse.

\* The data normalization process is call Extract Transform and Load. Pull data from the old source transform in a standard format such as name address, telephone number and load it into the data mart and/or data warehouse.

***Completion Criteria:***

Customer reviewed ETL Design document from the Warehouse to the DataMart.

Customer reviewed ETL Design document from the ODS to the Warehouse.

***Deliverable Materials:***

- ETL Design document from the Warehouse to the DataMart.
- ETL Design document from the ODS to the Warehouse.

**Assist in Completion of the DataMart:**

- a) Create Dimensions for A & B Reports (Appendix A).
- b) Create Fact Tables for A & B Reports.
- c) Assist in creating the ETL Design Document with County of Alameda.
- d) Assist in Populating the Fact and Dimension Tables with County of Alameda.

***Completion Criteria:***

Fact and Dimension Tables Populated

***Deliverable Materials:***

- Populated Fact and Dimension Tables

**Assist in Completion of A & B Reports:**

- a) Validate thirty-two (32) Reports with County of Alameda
- b) Document Report Requirements provided by County of Alameda
- c) Complete Cognos Framework Manager Modeling

***Completion Criteria:***

Review of Framework Manager Models for populating Reports

***Deliverable Materials:***

- Report Requirements Document
- Cognos Framework Manager Model

4. **Project Worksite:**

**Working Remote:** Week of April 4<sup>th</sup> / 40 hours

**Working On site for the following weeks:**

- Week of April 11<sup>th</sup> / 40 hours
- Week of April 18<sup>th</sup> / 40 hours
- Week of April 25<sup>th</sup> / 40 hours
- Week of May 2<sup>nd</sup> / 40 hours
- Week of May 9<sup>th</sup> / 40 hours

Additional 20 hours allocated for technical support (as needed).

5. **Contractor project team will consist of the following Key Personnel, as applicable during the contract term:** David Flusin.

Contractor agrees that it shall not transfer or reassign the individuals identified above as Key Personnel or substitute subcontractors without the express written agreement of County, which agreement shall not be unreasonably withheld. Should such individual or individuals in the employ of Contractor no longer be employed by Contractor during the term of this Agreement, Contractor shall make a good faith effort to present to County an individual with greater or equal qualifications as a replacement subject to County's approval, which approval shall not be unreasonably withheld.

The approval of County to a requested change shall not release Contractor from its obligations under this Agreement.

6. In meeting the needs of the Agency, the deliverables in Exhibit A may be modified by mutual agreement between the Social Services Agency Assistant Agency Director and the Contractor. Activities may not be exactly linear, depending on progress and Agency priorities.

**EXHIBIT B  
Payment Terms & Budget Summary**

1. The term of this Agreement is April 1, 2011 through June 30, 2011
2. Payment under the terms of this Agreement shall not exceed the total amount of \$75,000.00 for the period of the contract.
3. After the execution of this contract the Contractor shall submit monthly invoices after closing of each month in accordance with Exhibit's A & B. The Social Services Agency Contract Liaison will review and approve the invoices accordingly.  
**Contractor invoice shall (1) reference the Purchase Order Number, service date (2) Name of the individual working on the project the respective hourly rate, total hours and total amount (3) Itemize travel and living expenses (4) Project name must be included for payment process; Implementation Credits for Identity Insights.**

Contractor shall submit invoices and all other documents as required to:

Alameda County Social Services  
2000 San Pablo Ave. 4<sup>th</sup> floor  
Oakland, CA 94612  
Attn: Don Edwards

4. Working Remote: Week of March 7<sup>th</sup> = \$10,000

Description	Effective Rate	Total Hours	Total Rate	Estimated Travel & living expenses	Total
Data Modeler (David Flusin)	\$250.00	40	\$10,000.00	0.00	\$10,000.00

5. Working On site for the following weeks:
  - Week of March 14<sup>th</sup> / 40 hours = \$12,000.00
  - Week of March 21<sup>st</sup> / 40 hours = \$12,000.00
  - Week of March 28<sup>th</sup> / 40 hours = \$12,000.00
  - Week of April 4<sup>th</sup> / 40 hours = \$12,000.00
  - Week of April 11<sup>th</sup> / 40 hours = \$12,000.00

Description	Effective Rate	Total Hours	Total Rate	Estimated Travel & living expenses	Total
Data Modeler (David Flusin)	\$250.00	200	\$50,000.00	\$10,000.00	\$60,000.00

6. 20 hours Technical Support (as needed) = \$5,000.

7. Contract Budget Summary:

260 Hourly Services @ \$250 per hour	\$65,000.00
Estimated Travel & Living Expenses	\$10,000.00
Total	\$75,000.00

EXHIBIT C

**COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS**

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following insurance coverage, limits and endorsements:

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
<b>A</b>	<b>Commercial General Liability</b> Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability	\$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
<b>B</b>	<b>Commercial or Business Automobile Liability</b> All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability is acceptable for individual contractors with no transportation or hauling related activities	\$1,000,000 per occurrence (CSL) Any Auto Bodily Injury and Property Damage
<b>C</b>	<b>Workers' Compensation (WC) and Employers Liability (EL)</b> Required for all contractors with employees	WC: Statutory Limits EL: \$100,000 per accident for bodily injury or disease
<b>D</b>	<p><b>Endorsements and Conditions:</b></p> <ol style="list-style-type: none"> <li><b>1. ADDITIONAL INSURED:</b> All insurance required above with the exception of Personal Automobile Liability, Workers' Compensation and Employers Liability, shall be endorsed to name as additional insured: <u>County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees and representatives.</u></li> <li><b>2. DURATION OF COVERAGE:</b> All required insurance shall be maintained during the entire term of the Agreement with the following exception: Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until 3 years following termination and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement.</li> <li><b>3. REDUCTION OR LIMIT OF OBLIGATION:</b> All insurance policies shall be primary insurance to any insurance available to the Indemnified Parties and Additional Insured(s). Pursuant to the provisions of this Agreement, insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties.</li> <li><b>4. INSURER FINANCIAL RATING:</b> Insurance shall be maintained through an insurer with a A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to the County. Acceptance of Contractor's insurance by County shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor.</li> <li><b>5. SUBCONTRACTORS:</b> Contractor shall include all subcontractors as an insured (covered party) under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.</li> <li><b>6. JOINT VENTURES:</b> If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by any one of the following methods: <ul style="list-style-type: none"> <li>Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured (covered party), or at minimum named as an "Additional Insured" on the other's policies.</li> <li>Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured.</li> </ul> </li> <li><b>7. CANCELLATION OF INSURANCE:</b> All required insurance shall be endorsed to provide thirty (30) days advance written notice to the County of cancellation.</li> <li><b>8. CERTIFICATE OF INSURANCE:</b> Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to County, evidencing that all required insurance coverage is in effect. The County reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The required certificate(s) and endorsements must be sent to: <ul style="list-style-type: none"> <li>Department/Agency issuing the contract</li> <li>With a copy to the Contracts Office (2000 San Pablo Ave. 4<sup>th</sup> floor, Oakland, CA 94612)</li> </ul> </li> </ol>	

**EXHIBIT D**

**COUNTY OF ALAMEDA**

**DEBARMENT AND SUSPENSION CERTIFICATION**

(Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessary result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Standard Services Agreement. Signing this Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONTRACTOR: IBM Corporation

PRINCIPAL: CINDA GARRETT TITLE: Quality Assurance Manager

SIGNATURE: Cinda J. Garrett DATE: 4-12-2011

## EXHIBIT E

### COUNTY OF ALAMEDA CONTRACT COMPLIANCE REPORTING REQUIREMENTS

Upon receipt of signed contract documents, prime contractor shall immediately enter/assign subcontractors in the System, confirm payments received from the County within 5 business days in the System, immediately enter payments made to subcontractors and ensure that subcontractors confirm they received payments within 5 business days in the System. Subcontractors shall confirm their payments received from the prime contractor within 5 business days in the System.

Alameda County Contract Compliance System training and ongoing support are provided at no charge to contractors and participating sub-contractors awarded a contract as a result of this bid process for this project. Contractors having contracts with the County which have a start date on or after July 1, 2007 should schedule a representative from their office/company, along with each of their subcontractors, to attend training. The training schedule may be viewed online at [http://www.elationsys.com/elationsys/support\\_1.htm](http://www.elationsys.com/elationsys/support_1.htm) or call Elation Systems at (510) 764-1870. A special access code will be provided to contractors and subcontractors participating in this contract awarded to allow use of the System free of charge.

It is the Contractor's responsibility to ensure that they and their subcontractors are registered and trained as required to utilize the Alameda County Contract Compliance System. Training sessions are approximately one hour and will be held periodically in a number of locations throughout Alameda County.

## Exhibit F

### IBM Customer Agreement

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This IBM Customer Agreement (called the "Agreement") governs transactions by which Customer purchases Machines, licenses ICA Programs, obtains Program licenses, and acquires Services (including, without limitation, customized development and support, business consulting, and maintenance Services) from International Business Machines Corporation ("IBM").

#### 1. General

##### 1.1 Agreement Structure

This Agreement is organized in five Parts:

**Part 1 – General** includes terms regarding Agreement Structure, Definitions, Acceptance of Terms, Delivery, Charges and Payment, Changes to Agreement Terms, IBM Business Partners, Intellectual Property Protection, Limitation of Liability, General Principles of Our Relationship, Agreement Termination, and Geographic Scope and Governing Law.

**Part 2 – Warranties** defines applicable Warranties for IBM Machines, ICA Programs, IBM Services, and Systems, and terms regarding Extent of Warranty.

**Part 3 – Machines** includes Machine terms regarding Production Status, Title and Risk of Loss, Installation, and Machine Code.

**Part 4 – ICA Programs** includes ICA Program terms regarding License, Distributed System License Option, Program Services, Compliance Verification, and License Termination.

**Part 5 – Services** includes Services terms regarding Personnel, Materials Ownership and License, Customer Resources, Service for Machines (during and after warranty), Maintenance Coverage, Automatic Service Renewal, and Termination and Withdrawal of a Service.

##### 1.2 Attachments and Transaction Documents

Additional terms for Products and Services are in documents called "Attachments" and "Transaction Documents" provided by IBM. In general, Attachments contain terms that may apply to more than one Product or Services transaction, while Transaction Documents (such as a statement of work, supplement, schedule, invoice, exhibit, change authorization, or addendum) contain specific details and terms related to each individual transaction. Customer may receive one or more Transaction Documents for a single transaction. Attachments and Transaction Documents are part of this Agreement only for those transactions to which they apply. Each transaction is separate and independent from other transactions.

If there is a conflict among the terms of this Agreement, Attachments, and Transaction Documents, those of an Attachment prevail over those of this Agreement, and the terms of a Transaction Document prevail over those of both this Agreement and an Attachment.

##### 1.3 Definitions

**Customer-set-up Machine** – an IBM Machine that Customer is responsible for installing according to instructions provided with it.

**Date of Installation** –

- a. for an IBM Machine that IBM is responsible for installing, the business day after the day IBM installs it or, if Customer defers installation, makes it available to Customer for subsequent installation by IBM;
- b. for a Customer-set-up Machine and a non-IBM Machine, the second business day after the Machine's standard transit allowance period; and
- c. for a Program --
  - (1) basic license, the second business day after the Program's standard transit allowance period,
  - (2) copy, the date (specified in a Transaction Document) on which IBM authorizes Customer to make a copy of the Program, and
  - (3) chargeable component (also called a feature), the date Customer uses the chargeable component or a copy. Customer agrees to notify IBM of the chargeable component's Date of Installation.

**Designated Machine** – either i) the machine on which Customer will use an ICA Program for processing and which IBM requires Customer to identify to IBM by type/model and serial number, or ii) any machine on which Customer uses the ICA Program if IBM does not require Customer to provide this identification.

**Enterprise** – any legal entity (such as a corporation) and the subsidiaries it owns by more than 50 percent. The term "Enterprise" applies only to the portion of the Enterprise located in the United States.

**ICA Program** – an IBM Program licensed under Part 4 of this Agreement.

**Licensed Internal Code (called "LIC")** – Machine Code used by certain IBM Machines IBM specifies (called "Specific Machines").

**Machine** – a hardware device, its features, conversions, upgrades, elements, or accessories, or any combination of them. The term "Machine" includes an IBM Machine and any non-IBM Machine (including other equipment) that IBM may provide to Customer.

**Machine Code** – microcode, basic input/output system code (called "BIOS"), utility programs, device drivers, diagnostics, and any other code (all subject to any exclusions in the license provided with it) delivered with an IBM Machine for the purpose of enabling the Machine's function as stated in its Specifications. The term "Machine Code" includes LIC.

**Materials** – literary works or other works of authorship (such as software programs and code, documentation, reports, and similar works) that IBM may deliver to Customer as part of a Service. The term "Materials" does not include Programs, Machine Code, or other items available under their own license terms or agreements.

**Non-IBM Program** – a Program licensed under a separate third party license agreement.

**Other IBM Program** – an IBM Program licensed under a separate IBM license agreement (e.g., IBM International Program License Agreement).

**Product** – a Machine or a Program.

**Program** – the following, including the original and all whole or partial copies:

- a. machine-readable instructions and data;
- b. components;
- c. audio-visual content (such as images, text, recordings, or pictures); and
- d. related licensed materials.

The term "Program" includes any ICA Program, Other IBM Program, or Non-IBM Program that IBM may provide to Customer. The term does not include Machine Code or Materials.

**Service** – performance of a task, assistance, support, or access to resources (such as an information database) that IBM makes available to Customer.

**Specifications** – information specific to a Product. IBM Machine Specifications are in a document entitled "Official Published Specifications." ICA Program Specifications are in a document entitled "Licensed Program Specifications."

**Specified Operating Environment** – the machines and programs with which an ICA Program is designed to operate, as described in its Licensed Program Specifications.

#### **1.4 Acceptance of Terms**

Customer accepts the terms in Attachments and Transaction Documents by i) signing them (by hand or electronically), ii) using the Product or Service, or allowing others to do so, or iii) making any payment for the Product or Service.

A Product or Service becomes subject to this Agreement when IBM accepts Customer's order by i) sending Customer a Transaction Document, ii) shipping the Machine or making the Program available to Customer, or iii) providing the Service.

Any Attachment or Transaction Document will be signed by both parties if requested by either party.

#### **1.5 Delivery**

Delivery dates are estimates unless otherwise specifically agreed in a Transaction Document. Transportation charges, if applicable, will be specified in a Transaction Document. For Programs IBM provides to Customer in tangible form, IBM fulfills its shipping and delivery obligations upon the delivery of such Programs to the IBM-designated carrier, unless otherwise agreed to in writing by Customer and IBM.

#### **1.6 Charges and Payment**

##### **1.6.1 Charges**

A Transaction Document specifies the amount payable for Products or Services, based on one or more of the following types of charges: one-time, recurring, time and materials, or fixed price. Additional charges may apply (such as special handling or travel related expenses). IBM will inform Customer in advance whenever additional charges apply.

Recurring charges for a Product begin on its Date of Installation. Charges for Services are billed as specified in a Transaction Document, which may be in advance, periodically during the performance of the Service, or after the Service is completed. Unless otherwise provided in this Agreement (including any applicable Attachment or Transaction Document): i) Services for which Customer prepays must be used within the applicable contract period; and ii) IBM does not give credits or refunds for any prepaid or other charges already due or paid.

If a Transaction Document provides an estimated total charge for time and materials or for usage charges, the estimate is for planning purposes only. IBM invoices charges based on actual time and materials expended or Customer's actual or authorized use, subject to any specified minimum commitment.

##### **1.6.2 Usage Charges**

One-time and recurring charges may be based on measurements of actual or authorized use (for example, authorized capacity for Machines, number of users or processor size for Programs, or meter readings for maintenance Services). Customer agrees to provide actual usage data as described in an Attachment or Transaction Document.

If Customer makes changes to its environment that impact usage charges (for example, change authorized capacity for Machines or change processor size or configuration for Programs), Customer agrees to promptly notify IBM and pay any applicable charges. Recurring charges will be adjusted accordingly. In the event that IBM changes the basis of measurement, its terms for changing charges will apply.

### 1.6.3 Changes to Charges

From time to time, IBM may change its charges. Customer receives the benefit of a decrease in charges for amounts that become due on or after the effective date of the decrease.

Unless provided otherwise in an Attachment or Transaction Document, IBM may increase recurring charges for Products and Services, as well as labor rates and minimums for Services provided under this Agreement, by giving Customer three months' written notice. An increase applies on the first day of the invoice or charging period on or after the effective date IBM specifies in the notice.

IBM may increase one-time charges without notice. However, an increase to one-time charges does not apply to Customer if i) IBM receives the order before the announcement date of the increase and ii) one of the following occurs within three months after IBM's receipt of the order:

- a. IBM ships Customer the Machine or makes the Program available to Customer;
- b. Customer makes an authorized copy of a Program or distributes a chargeable component of a Program to another Machine; or
- c. a Program's increased use charge becomes due.

Upon reasonable notice, IBM may verify the usage data and other information affecting the calculation of charges under this Agreement. Such verification will be conducted in a manner that minimizes disruption to Customer's business and may be conducted on Customer's premises, during Customer's normal business hours. Customer agrees to i) provide records, system tools outputs, and other electronic or hard copy system information reasonably necessary for such verification, and ii) promptly pay any additional, valid charges and other liabilities determined as a result of such verification.

### 1.6.4 Payment

Amounts are due upon receipt of invoice and payable as specified in a Transaction Document. Customer agrees to pay accordingly, including any late payment fee. Payment may be made electronically to an account specified by IBM or by other means agreed to by the parties.

### 1.6.5 Taxes

If any authority imposes upon any transaction under this Agreement a duty, tax, levy, or fee, excluding those based on IBM's net income, then Customer agrees to pay that amount as specified in an invoice, unless Customer supplies exemption documentation. Customer is responsible for any personal property taxes for each Product from the date IBM ships it to Customer. For Programs that IBM delivers electronically to Customer and for which Customer claims a state sales and use tax exemption, Customer and IBM agree that no tangible personal property (e.g., media and publications) is transferred to Customer. Customer is responsible for any sales and use tax liabilities that may arise as a result of Customer's subsequent re-distribution of such Programs. Additional taxes and tax related charges may apply if IBM personnel are required to perform Services outside their normal tax jurisdiction. As practical, IBM will work to mitigate such additional tax and tax-related charges and will inform Customer in advance if these additional charges apply and are payable by Customer.

### 1.7 Changes to the Agreement Terms

In order to maintain flexibility in our business relationship, IBM may change the terms of this Agreement by providing Customer at least three months' written notice. However, these changes are not retroactive. They apply, as of the effective date IBM specifies in the notice, only to new orders, on-going transactions that do not expire, and transactions with a defined renewable contract period. For transactions with a defined renewable contract period, Customer may request that IBM defer the change effective date until the end of the current contract period.

Customer acknowledges its agreement to have these changes apply for such transactions by i) placing new orders for Products or Services after the change effective date, ii) failing to request that the change effective date be deferred until the start of the next renewal period, iii) allowing transactions to renew after receipt of the change notice, or iv) failing to terminate non-expiring transactions prior to the change effective date. Changes to charges are implemented as described in the Charges and Payment section above.

Otherwise, for a change to be valid, both parties must sign it.

## **1.8 IBM Business Partners**

IBM has signed agreements with certain organizations (called "IBM Business Partners") to promote, market, and support certain Products and Services. Customer may order IBM Products or Services that are promoted or marketed to Customer by IBM Business Partners or other suppliers, however, i) this Agreement applies only if a Transaction Document subject to this Agreement is provided for the specific transaction, and ii) such Business Partners and suppliers remain independent and separate from IBM. IBM is not responsible for the actions or statements of IBM Business Partners or other suppliers, any obligations either has to Customer, or any products or services that they supply to Customer under their agreements.

## **1.9 Intellectual Property Protection**

For purposes of this Intellectual Property Protection section, the term "Product" also includes Materials and Machine Code.

### **1.9.1 Third Party Claims**

If a third party claims that a Product IBM provides to Customer infringes that party's patent or copyright, IBM will defend Customer against that claim at IBM's expense and pay all costs, damages, and attorney's fees that a court finally awards or that are included in a settlement approved by IBM, provided that Customer:

- a. promptly notifies IBM in writing of the claim; and
- b. allows IBM to control, and cooperates with IBM in, the defense and any related settlement negotiations.

### **1.9.2 Remedies**

If such a claim is made or appears likely to be made, Customer agrees to permit IBM to enable Customer to continue to use the Product, or to modify it, or replace it with one that is at least functionally equivalent. If IBM determines that none of these alternatives is reasonably available, Customer agrees to return the Product to IBM on IBM's written request. IBM will then give Customer a credit equal to:

- a. for a Machine, Customer's net book value calculated according to generally-accepted accounting principles;
- b. for an ICA Program, the amount paid by Customer or 12 months' charges (whichever is less); and
- c. for Materials, the amount Customer paid IBM for the creation of the Materials.

### **1.9.3 Claims for Which IBM is Not Responsible**

IBM has no obligation regarding any claim based on any of the following:

- a. anything provided by Customer or a third party on Customer's behalf that is incorporated into a Product or IBM's compliance with any designs, specifications, or instructions provided by Customer or a third party on Customer's behalf;
- b. modification of a Product by Customer or a third party on Customer's behalf, or an ICA Program's use other than in accordance with its applicable licenses and restrictions;
- c. the combination, operation, or use of a Product with any product, hardware device, program, data, apparatus, method, or process that IBM did not provide as a system, if the infringement would not have occurred were it not for such combination, operation or use;
- d. the distribution, operation or use of a Product outside Customer's Enterprise; or
- e. infringement by a non-IBM Product or an Other IBM Program alone.

This Intellectual Property Protection section states IBM's entire obligation and Customer's exclusive remedy regarding any third party intellectual property claims.

## **1.10 Limitation of Liability**

### **1.10.1 Items for Which IBM May Be Liable**

Circumstances may arise where, because of a default on IBM's part or other liability, Customer is entitled to recover damages from IBM. Regardless of the basis on which Customer is entitled to claim damages from IBM (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), IBM's entire liability for all claims in the aggregate arising from or related to each Product or Service or otherwise arising under this Agreement will not exceed the amount of any actual direct damages up to the greater of \$100,000, or the charges (if recurring, 12 months' charges apply) for the Product or Service that is the subject of the claim. For purposes of this Limitation of Liability section, the term "Product" also includes Materials and Machine Code.

This limit also applies to any of IBM's subcontractors and Program developers. It is the maximum for which IBM and its subcontractors and Program developers are collectively responsible. The following amounts are not subject to a cap on the amount of damages:

- a. payments referred to in the Intellectual Property Protection section above; and
- b. damages for bodily injury (including death) and damage to real property and tangible personal property for which IBM is legally liable.

### **1.10.2 Items for Which IBM Is Not Liable**

Except as expressly required by law without the possibility of contractual waiver, under no circumstances is IBM, its subcontractors, or Program developers liable for any of the following even if informed of their possibility:

- a. loss of, or damage to, data;
- b. special, incidental, exemplary, or indirect damages or for any economic consequential damages; or
- c. lost profits, business, revenue, goodwill, or anticipated savings.

## **1.11 General Principles of Our Relationship**

### **1.11.1 Notices and Communications**

Written communications, including notices to the receiving party's designated representative, are to be sent to the address (physical, e-mail or facsimile) specified in an applicable Attachment or Transaction Document. The parties consent to the use of electronic means and facsimile transmissions to send and receive communications in connection with our business relationship arising out of this Agreement, and such communications are acceptable as a signed writing. An identification code (called a "user ID") contained in an electronic document is sufficient to verify the sender's identity and the document's authenticity.

### **1.11.2 Assignment and Resale**

Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other. Any attempt to assign without consent is void. The assignment of this Agreement, in whole or in part, within the Enterprise of which either party is a part or to a successor organization by merger or acquisition does not require the consent of the other. IBM is also permitted to assign its rights to payments without obtaining Customer's consent. It is not considered an assignment for IBM to divest a portion of its business in a manner that similarly affects all of its customers.

Customer agrees not to resell any Service without IBM's prior written consent. Any attempt to do so is void.

Customer agrees to acquire Machines with the intent to use them within its Enterprise and not for reselling, leasing, or transferring to a third party, unless either of the following applies:

- a. Customer is arranging lease-back financing for the Machines; or
- b. Customer purchases the Machines without any discount or allowance, and does not remarket them in competition with IBM's authorized remarketers.

**1.11.3 Compliance with Laws**

IBM will comply with laws applicable to IBM generally as a provider of information technology Products and Services. IBM is not responsible for determining the requirements of laws applicable to Customer's business, including those relating to Products and Services that Customer acquires under this Agreement, or that IBM's provision of or Customer's receipt of particular Products or Services under this Agreement meets the requirements of such laws. Neither party is obligated to take any action that would violate applicable law.

Each party will comply with applicable export and import laws and regulations, including those of the United States that prohibit or limit export for certain uses or to certain end users.

**1.11.4 Dispute Resolution**

Each party will allow the other reasonable opportunity to comply before it claims that the other has not met its obligations under this Agreement. The parties will attempt in good faith to resolve all disputes, disagreements, or claims between the parties relating to this Agreement. Unless otherwise required by applicable law without the possibility of contractual waiver or limitation, i) neither party will bring a legal action, regardless of form, arising out of or related to this Agreement or any transaction under it more than two years after the cause of action arose; and ii) after such time limit, any legal action arising out of this Agreement or any transaction under it and all respective rights related to any such action lapse.

Each party waives any right to a jury trial in any proceeding arising out of or related to this Agreement.

**1.11.5 Other Principles of Our Relationship**

- a. Neither party grants the other the right to use its (or any of its Enterprise's) trademarks, trade names, or other designations in any promotion or publication without prior written consent.
- b. The exchange of any confidential information will be made under a separate, signed confidentiality agreement. However, to the extent confidential information is exchanged in connection with any Product or Service under this Agreement, the applicable confidentiality agreement is incorporated into, and subject to, this Agreement.
- c. This Agreement and any transaction under it do not create an agency, joint venture, or partnership between Customer and IBM. Each party is free to enter into similar agreements with others to develop, acquire, or provide competitive products and services.
- d. Each party grants only the licenses and rights specified in this Agreement. No other licenses or rights (including licenses or rights under patents) are granted either directly, by implication, or otherwise. The rights and licenses granted to Customer under this Agreement may be terminated if Customer fails to fulfill its applicable payment obligations.
- e. Customer authorizes International Business Machines Corporation and its subsidiaries (and their successors and assigns, contractors and IBM Business Partners) to store and use Customer's business contact information wherever they do business, in connection with IBM Products and Services or in furtherance of IBM's business relationship with Customer.
- f. No right or cause of action for any third party is created by this Agreement or any transaction under it, nor is IBM responsible for any third party claims against Customer except as described in the Intellectual Property Protection section above or as permitted by the Limitation of Liability section above for bodily injury (including death) or damage to real or tangible personal property for which IBM is legally liable to that third party.
- g. Customer is responsible for selecting the Products and Services that meet its needs and for the results obtained from the use of the Products and Services, including Customer's decision to implement any recommendation concerning Customer's business practices and operations.
- h. Where approval, acceptance, consent or similar action by either party is required under this Agreement, such action will not be unreasonably delayed or withheld.
- i. Neither party is responsible for failure to fulfill any non-monetary obligations due to events beyond its control.

- j. As reasonably required by IBM to fulfill its obligations under this Agreement, Customer agrees to provide IBM with sufficient and safe access (including remote access) to Customer's facilities, systems, information, personnel, and resources, all at no charge to IBM. IBM is not responsible for any delay in performing or failure to perform caused by Customer's delay in providing such access or performing other Customer responsibilities under this Agreement.

### **1.12 Agreement Termination**

Either party may terminate this Agreement on written notice to the other following the expiration or termination of the terminating party's obligations under this Agreement, including any applicable Attachment or Transaction Document.

Either party may terminate this Agreement if the other does not comply with any of its terms, provided the one who is not complying is given written notice and reasonable time to comply. License termination and termination of a Services transaction are described in Parts 4 and 5, respectively.

Any terms of this Agreement that by their nature extend beyond the Agreement termination remain in effect until fulfilled, and apply to both parties' respective successors and assignees.

### **1.13 Geographic Scope and Governing Law**

The rights, duties, and obligations of each party are valid only in the United States except that all licenses are valid as specifically granted.

Both parties agree to the application of the laws of the State of New York to govern, interpret, and enforce all of Customer's and IBM's respective rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this Agreement, without regard to conflict of law principles.

If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement remain in full force and effect.

Nothing in this Agreement affects any statutory rights of consumers that cannot be waived or limited by contract.

## **2. Warranties**

### **2.1 The IBM Warranties**

#### **2.1.1 Warranty for IBM Machines**

IBM warrants that each IBM Machine is free from defects in materials and workmanship and conforms to its Specifications.

The warranty period for an IBM Machine is a fixed period commencing on its Date of Installation and specified in a Transaction Document. During the warranty period, IBM provides repair and exchange Service for the IBM Machine, without charge, under the type of Service IBM designates for the IBM Machine. If an IBM Machine does not function as warranted during the warranty period and IBM is unable to either i) make it do so or ii) replace it with one that is at least functionally equivalent, Customer may return it to IBM for a refund.

Additional terms regarding Service for Machines during and after the warranty period are in Part 5.

#### **2.1.2 Warranty for ICA Programs**

IBM warrants that each warranted ICA Program, when used in the Specified Operating Environment, will conform to its Specifications.

During the warranty period, IBM provides defect-related Program Services without charge. Program Services are available for a warranted ICA Program for at least one year following its general availability. The warranty period for an ICA Program expires when its Program Services are no longer available.

If an ICA Program does not function as warranted during the first year after Customer obtains its license and IBM is unable to make it do so, Customer may return the ICA Program and the charges Customer paid for the license will be refunded. To be eligible, Customer must have obtained its

license while Program Services (regardless of the remaining duration) were available for the ICA Program. Additional terms regarding Program Services are contained in Part 4.

### 2.1.3 Warranty for IBM Services

IBM warrants that it performs each IBM Service using reasonable care and skill and according to its current description (including any completion criteria) contained in this Agreement, an Attachment, or a Transaction Document. Customer agrees to provide timely written notice of any failure to comply with this warranty so that IBM can take corrective action.

### 2.1.4 Warranty for Systems

When IBM specifies in an Attachment or Transaction Document that it is providing Products to Customer that are intended to operate together as a system, IBM warrants that those Products are compatible and, when installed in accordance with their Specifications, will operate with one another. This warranty is in addition to IBM's other applicable warranties.

## 2.2 Extent of Warranty

If a Machine is subject to federal or state consumer warranty laws, IBM's statement of limited warranty included with the Machine applies in place of these Machine warranties.

The warranties stated above will not apply to the extent that there has been misuse (including, but not limited to, use of any Machine capacity or capability, other than that authorized by IBM in writing), accident, modification, unsuitable physical or operating environment, operation in other than the Specified Operating Environment, improper maintenance by Customer or a third party, or failure or damage caused by a product for which IBM is not responsible. The warranty for IBM Machines is voided by removal or alteration of Machine or parts identification labels.

**THESE WARRANTIES ARE CUSTOMER'S EXCLUSIVE WARRANTIES AND REPLACE ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

### Items Not Covered by Warranty

IBM does not warrant uninterrupted or error-free operation of a Product or Service or that IBM will correct all defects.

IBM will identify IBM Machines and ICA Programs that it does not warrant.

Unless otherwise specified in an Attachment or Transaction Document, IBM provides Materials, non-IBM Products (including those provided with, or installed on, an IBM Machine at Customer's request), and non-IBM Services **WITHOUT WARRANTIES OF ANY KIND**. However, non-IBM manufacturers, developers, suppliers, or publishers may provide their own warranties to Customer. Warranties, if any, for Other IBM Programs and Non-IBM Programs may be found in their license agreements.

## 3. Machines

### 3.1 Production Status

Each IBM Machine is manufactured from parts that may be new or used. In some cases, a Machine may not be new and may have been previously installed. Regardless, IBM's applicable warranty terms described in Part 2 apply.

### 3.2 Title and Risk of Loss

When IBM accepts Customer's order, IBM agrees to sell Customer the Machine described in a Transaction Document. IBM transfers title to Customer or, if applicable, Customer's lessor when the Machine is shipped to Customer or its designated location. However, IBM reserves a purchase money security interest in the Machine until IBM receives the amounts due. For a feature, conversion, or upgrade involving the removal of parts which become IBM's property, IBM reserves a security interest until IBM receives payment of all the amounts due and the removed parts. Customer authorizes IBM to file appropriate documents to permit IBM to perfect its security interest.

For each Machine, IBM bears the risk of loss or damage up to the time it is delivered to the IBM-designated carrier for shipment to Customer or Customer's designated location. Thereafter, Customer assumes the risk. Each Machine will be covered by insurance, arranged and paid for by IBM for Customer, covering the period until it is delivered to Customer or Customer's designated location. For any loss or damage, Customer must i) report the loss or damage in writing to IBM within 10 business days of delivery and ii) follow the applicable claim procedure.

### **3.3 Installation**

#### **3.3.1 Machine Installation**

Customer agrees to provide an environment meeting the requirements for the Machine as specified in its published documentation.

IBM has standard installation procedures. IBM will successfully complete these procedures before it considers an IBM Machine (other than a Machine for which Customer defers installation or a Customer-set-up Machine) installed.

Customer is responsible for installing a Customer-set-up Machine and a non-IBM Machine according to instructions provided by IBM or the Machine's manufacturer.

#### **3.3.2 Upgrades and Engineering Changes**

As used in this section, the term "upgrade" includes, without limitation, features and conversions. IBM sells upgrades for installation on Machines, and, in certain instances, only for installation on a designated, serial-numbered Machine. Within 30 days of the shipment of an upgrade, Customer agrees to install the upgrade or, if IBM is responsible for the installation, to allow IBM to install the upgrade. Otherwise, IBM may terminate the transaction and Customer must return the upgrade at Customer's expense.

Customer agrees to allow IBM to install mandatory engineering changes (such as those required for safety) on a Machine.

Many upgrades and engineering changes require the removal of parts and the transfer of ownership and possession of the removed parts to IBM. Customer is responsible for the return of all removed parts to IBM upon installation of the upgrade or engineering change. As applicable, Customer represents that Customer has permission from the owner and any lien holders to i) install upgrades and engineering changes and ii) transfer ownership and possession of removed parts to IBM. Customer further represents that all removed parts are genuine, unaltered, and in good working order. A part that replaces a removed part will assume the warranty or maintenance Service status of the replaced part.

### **3.4 Machine Code**

Machine Code is licensed under the terms and restrictions of the Machine Code license agreement (e.g. IBM License Agreement for Machine Code, IBM Agreement for Licensed Internal Code, or an equivalent) provided with the Machine Code.

Machine Code is licensed only for use to enable a Machine to function in accordance with its Specifications and only for the capacity and capability for which Customer has acquired IBM's written authorization. Customer agrees to use Machine Code only as specified in this Agreement and as may be further authorized or restricted in its applicable license agreement. Without limiting additional restrictions in the applicable license, Customer may not:

- a. otherwise copy, display, transfer, adapt, modify, or distribute (electronically or otherwise) Machine Code, except as IBM may authorize in the Machine's user documentation or in writing to Customer;
- b. reverse assemble, reverse compile, otherwise translate, or reverse engineer Machine Code unless expressly permitted by applicable law without the possibility of contractual waiver;
- c. sublicense or assign the license for Machine Code; or
- d. lease Machine Code or any copy of it.

International Business Machines Corporation, one of its subsidiaries, or a third party owns Machine Code including all copyrights in Machine Code and all copies of Machine Code (this includes the original Machine Code, copies of the original Machine Code, and copies made from copies). Machine Code is copyrighted and licensed (not sold).

The capacity of certain Machines is limited by technological measures in Machine Code. Customer agrees to IBM's implementation of such technological measures to limit Machine capacity.

#### **4. ICA Programs**

##### **4.1 License**

When IBM accepts Customer's order, IBM grants Customer a nonexclusive license to use the ICA Program only within Customer's Enterprise in the United States. ICA Programs are owned by International Business Machines Corporation, one of its subsidiaries, or a third party and are copyrighted and licensed (not sold).

##### **4.1.1 Authorized Use**

Under each license, IBM authorizes Customer to:

- a. use the ICA Program's machine-readable portion on only the Designated Machine. If the Designated Machine is inoperable, Customer may use another machine temporarily. If the Designated Machine cannot assemble or compile the ICA Program, Customer may assemble or compile the ICA Program on another machine.

If Customer changes a Designated Machine previously identified to IBM, Customer agrees to notify IBM of the change and its effective date;

- b. use the ICA Program to the extent of authorizations Customer has obtained;
- c. make and install copies of the ICA Program, to support the level of use authorized, provided Customer reproduces the copyright notices and any other legends of ownership on each copy or partial copy; and
- d. use any portion of the ICA Program IBM i) provides in source form, or ii) marks restricted (for example, "Restricted Materials of IBM") only to –
  - (1) resolve problems related to the use of the ICA Program, and
  - (2) modify the ICA Program so that it will work together with other products.

##### **4.1.2 Customer's Additional Obligations**

For each ICA Program, Customer agrees to:

- a. comply with any additional or different terms in its Licensed Program Specifications or an Attachment or Transaction Document;
- b. ensure that anyone who uses it (accessed either locally or remotely) does so only for Customer's authorized use and complies with IBM's terms regarding ICA Programs; and
- c. maintain a record of all copies and provide it to IBM at its request.

##### **4.1.3 Actions Customer May Not Take**

Customer agrees not to:

- a. reverse assemble, reverse compile, otherwise translate, or reverse engineer the ICA Program unless expressly permitted by applicable law without the possibility of contractual waiver; or
- b. sublicense, assign, rent, or lease the ICA Program or transfer it outside Customer's Enterprise.

#### **4.2 Distributed System License Option**

For some ICA Programs, Customer may make a copy under a Distributed System License Option (called a "DSLO" copy). IBM charges less for a DSLO copy than for the original license (called the

"Basic" license). In return for the lesser charge, Customer agrees to do the following while licensed under a DSLO:

- a. have a Basic license for the ICA Program;
- b. provide problem documentation and receive Program Services (if any) only through the location of the Basic license; and
- c. distribute to, and install on, the DSLO's Designated Machine, any release, correction, or bypass that IBM provides for the Basic license.

#### **4.3 Program Services**

IBM provides Program Services for warranted ICA Programs. If IBM can reproduce Customer's reported problem in the Specified Operating Environment, IBM will issue defect correction information, a restriction, or a bypass. IBM provides Program Services for only the unmodified portion of a current release of an ICA Program.

IBM provides Program Services i) on an on-going basis (with at least six months' written notice before IBM terminates Program Services), ii) until the date IBM specifies, or iii) for a period IBM specifies.

#### **4.4 Compliance Verification**

IBM's right to verify Customer's usage data and other information affecting the calculation of charges also includes the right to verify Customer's compliance with other terms of this Agreement (including applicable Attachments and Transaction Documents) relating to Customer's use of ICA Programs at all sites and for all environments in which Customer installs or uses ICA Programs for any purpose. IBM may use an independent auditor to assist with such verification, provided IBM has a written confidentiality agreement in place with such auditor.

Customer agrees to create, retain, and provide to IBM and its auditors written records, system tools outputs, and other system information sufficient to provide auditable verification that Customer's installation and use of ICA Programs complies with the Agreement terms, including IBM's applicable licensing and pricing terms. IBM will notify Customer in writing if any such verification indicates that Customer is not in compliance with Agreement terms. The rights and obligations in this section remain in effect during the period any ICA Programs are licensed to Customer and for two years thereafter.

#### **4.5 License Termination**

Customer may terminate the license for an ICA Program at any time on one month's written notice to IBM.

For ICA Program licenses that Customer acquired for a one-time charge, replacement licenses may be acquired for an upgrade charge, if available. When Customer obtains licenses for these replacement ICA Programs, Customer agrees to terminate the license of the replaced ICA Programs when charges become due, unless IBM specifies otherwise.

IBM may terminate Customer's license if Customer fails to comply with the license terms. If IBM does so, Customer's authorization to use the ICA Program is also terminated.

Customer agrees to promptly destroy all copies of the Program after either party has terminated the license.

### **5. Services**

#### **5.1 Personnel**

Each party will assign personnel that are qualified to perform the tasks required of such party under this Agreement and is responsible for the supervision, direction, control, and compensation of its personnel. Subject to the foregoing, each party may determine the assignment of its personnel and its contractors.

IBM may engage subcontractors to provide or assist in providing Services, in which case IBM remains responsible for the fulfillment of its obligations under this Agreement and for the performance of the Services.

## **5.2 Materials Ownership and License**

An Attachment or Transaction Document will specify Materials to be delivered to Customer and identify them as "Type I Materials," "Type II Materials," or otherwise as both parties agree. If not specified, Materials will be considered Type II Materials.

Customer will own the copyright in Materials created as part of a Service that are identified as "Type I Materials" and each such Material will constitute a "work made for hire" to the extent permissible under U.S. copyright law. If any such Materials are not works made for hire under applicable law, IBM assigns the ownership of copyrights in such Materials to Customer. Customer grants IBM an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, sublicense, distribute, and prepare derivative works based on, Type I Materials.

IBM or its suppliers will own the copyright in Materials created as part of a Services transaction that are identified as Type II Materials. IBM grants Customer an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, and distribute (within Customer's Enterprise only) copies of Type II Materials.

IBM or its suppliers retains ownership of the copyright in any of IBM's or its suppliers' works that pre-exist or were developed outside of this Agreement and any modifications or enhancements of such works that may be made under this Agreement. To the extent they are embedded in any Materials, such works are licensed in accordance with their separate licenses provided to Customer, if any, or otherwise as Type II Materials.

Each of us agrees to reproduce the copyright notice and any other legend of ownership on any copies made under the licenses granted in this section.

## **5.3 Customer Resources**

If Customer is making available to IBM any facilities, software, hardware or other resources in connection with IBM's performance of Services, Customer agrees to obtain any licenses or approvals related to these resources that may be necessary for IBM to perform the Services and develop Materials. IBM will be relieved of its obligations that are adversely affected by Customer's failure to promptly obtain such licenses or approvals. Customer agrees to reimburse IBM for any reasonable costs and other amounts that IBM may incur from Customer's failure to obtain these licenses or approvals.

Unless otherwise agreed in an Attachment or Transaction Document, Customer is responsible for i) any data and the content of any database Customer makes available to IBM in connection with a Service under this Agreement, ii) the selection and implementation of procedures and controls regarding access, security, encryption, use, and transmission of data, and iii) backup and recovery of the database and any stored data.

## **5.4 Service for Machines (during and after warranty)**

### **5.4.1 Service for Machines**

IBM provides certain types of Service to keep Machines in, or restore them to, conformance with their Specifications. IBM will inform Customer of the available types of Service for a Machine. At its discretion, IBM will i) either repair or exchange the failing Machine and ii) provide the Service either at Customer's location or a service center. IBM manages and installs selected engineering changes that apply to IBM Machines and may also perform preventive maintenance.

Any feature, conversion, or upgrade IBM services must be installed on a Machine which is i) the designated, serial-numbered Machine, if applicable, and ii) at an engineering-change level compatible with the feature, conversion, or upgrade.

When the type of Service requires that Customer deliver the failing Machine to IBM, Customer agrees to ship it suitably packaged (prepaid unless IBM specifies otherwise) to a location IBM designates. After IBM has repaired or exchanged the Machine, IBM will deliver it to Customer at

IBM's expense unless IBM specifies otherwise. IBM is responsible for loss of, or damage to, Customer's Machine while it is i) in IBM's possession or ii) in transit in those cases where IBM is responsible for the transportation charges.

Customer agrees:

- a. to obtain authorization from the owner to have IBM service a Machine that Customer does not own;
- b. where applicable, before IBM provides Service, to --
  - (1) follow the problem determination and service request procedures that IBM provides,
  - (2) secure all programs, data, and funds contained in a Machine, and
  - (3) inform IBM of changes in a Machine's location.
- c. to follow the Service instructions that IBM provides (which may include installing Machine Code and other software updates either downloaded from an IBM Internet Web site or copied from other electronic media); and
- d. when Customer returns a Machine to IBM for any reason --
  - (1) to securely erase from any Machine all programs not provided by IBM with the Machine and data, including without limitation, the following: i) information about identified or identifiable individuals or legal entities ("Personal Data") and ii) Customer's confidential or proprietary information and other data. If removing or deleting Personal Data is not possible, Customer agrees to transform such information (e.g., by making it anonymous) so that it no longer qualifies as Personal Data under applicable law;
  - (2) to remove all funds from Machines returned to IBM. IBM is not responsible for any funds, programs not provided by IBM with the Machine, or data contained in a Machine that Customer returns to IBM; and
  - (3) IBM may ship all or part of the Machine or its software to other IBM or third party locations around the world to perform its responsibilities under this Agreement, and Customer authorizes IBM to do so.

#### 5.4.2 Replacements

When Service involves the exchange of a part or Machine, the item IBM replaces becomes its property and the replacement becomes Customer's. Customer represents that all removed items are genuine and unaltered. The replacement may not be new, but will be in good working order and at least functionally equivalent to the item replaced. The replacement assumes the warranty or maintenance Service status of the replaced item. Before IBM exchanges a part or Machine, Customer agrees to remove all features, parts, options, alterations, and attachments not under IBM's service. Customer also agrees to i) ensure that the part or Machine is free of any legal obligations or restrictions that prevent its exchange and ii) transfer ownership and possession of removed parts to IBM.

Service for some IBM Machines involves IBM providing Customer with an exchange replacement for installation by Customer. Such exchange replacements may be i) a part of a Machine (called a Customer Replaceable Unit, or "CRU," e.g., keyboard, memory, or hard disk drive), or ii) an entire Machine. Customer may request IBM to install the replacement CRU or Machine, however, Customer may be charged for the installation. IBM provides information and replacement instructions with Customer's Machine and at any time on Customer's request. IBM specifies in the materials shipped with a replacement whether the failing CRU or Machine must be returned to IBM. When return is required, return instructions and a container are shipped with the replacement, and Customer may be charged for the replacement if IBM does not receive the failing CRU or Machine within 15 days of Customer's receipt of the replacement.

#### 5.4.3 Items Not Covered

Repair and exchange Services do not cover:

- a. accessories, supply items, consumables (such as batteries and printer cartridges), and structural parts (such as frames and covers);
- b. Machines damaged by misuse, accident, modification, unsuitable physical or operating environment, or improper maintenance by Customer or a third party;
- c. Machines with removed or altered Machine or parts identification labels;
- d. failures caused by a product for which IBM is not responsible;
- e. service of Machine alterations; or
- f. service of a Machine on which Customer is using capacity or capability, other than that authorized by IBM in writing.

### **5.5 Warranty Service Upgrade**

For certain Machines, Customer may select a Service upgrade from the standard type of warranty Service for the Machine. IBM charges for the Service upgrade during the warranty period.

Customer may not terminate the Service upgrade or transfer it to another Machine during the warranty period.

When the warranty period ends, the Machine will convert to maintenance Service at the same type of Service Customer selected for warranty Service upgrade.

### **5.6 Maintenance Coverage**

When Customer orders maintenance Service for Machines, IBM will inform Customer of the date on which maintenance Service will begin. IBM may inspect the Machine within one month following that date. If the Machine is not in an acceptable condition for service, Customer may have IBM restore it for a charge or Customer may withdraw its request for maintenance Service. However, Customer will be charged for any maintenance Service which IBM has performed at Customer's request.

### **5.7 Automatic Service Renewal**

Renewable Services renew automatically for a same length contract period unless either of us provides written notification (at least one month prior to the end of the current contract period) to the other of its decision not to renew.

During an automatic renewal period, Customer may terminate the Service on one month's written notice, and IBM will provide Customer a prorated credit for any unused Services for which Customer has paid in advance.

### **5.8 Termination and Withdrawal of a Service**

Either party may terminate a Service transaction if the other materially fails to meet its obligations concerning the Service.

Customer may terminate a Service, on notice to IBM provided Customer has met all minimum requirements and paid any adjustment charges specified in the applicable Attachments and Transaction Documents.

For a maintenance Service, Customer may terminate without adjustment charge, provided any of the following circumstances occur:

- a. Customer permanently removes the eligible Product, for which the Service is provided, from productive use within Customer's Enterprise;
- b. the eligible location, for which the Service is provided, is no longer controlled by Customer (for example, because of sale or closing of the facility); or
- c. the Machine has been under maintenance Service for at least one year and Customer gives IBM one month's written notice prior to terminating the maintenance Service.

Customer agrees to pay IBM for i) all charges for Services IBM provides and any Products and Materials IBM delivers through Service termination, and ii) reimbursable expenses IBM incurs

through Service termination. If Customer terminates without cause, Customer also agrees to pay any applicable adjustment or termination charges and for expenses IBM incurs as a result of such termination (which IBM will take reasonable steps to mitigate).

IBM may withdraw a Service or support for an eligible Product on three months' written notice to Customer. If IBM withdraws a Service for which Customer has prepaid and IBM has not yet fully provided it to Customer, IBM will give Customer a prorated refund.

Any terms which by their nature extend beyond termination or withdrawal remain in effect until fulfilled and apply to respective successors and assignees.

This Agreement, including its applicable Attachments and Transaction Documents, is the complete agreement regarding transactions by which Customer purchases Machines, licenses ICA Programs, obtains Program licenses, and acquires Services from IBM, and replaces any prior oral or written communications between Customer and IBM. In entering into this Agreement, including each Attachment and Transaction Document, neither party is relying on any representation that is not specified in this Agreement including without limitation any representations concerning: i) estimated completion dates, hours, or charges to provide any Service; ii) performance or function of any Product or system, other than as expressly warranted in Part 2 above; iii) the experiences or recommendations of other parties; or iv) results or savings Customer may achieve. Additional or different terms in any written communication from Customer (such as a purchase order) are void.

Each party accepts, on behalf of its Enterprise, the terms of this Agreement by signing this Agreement (or another document that incorporates it by reference) by hand or electronically. Once signed, i) any reproduction of this Agreement, an Attachment, or Transaction Document made by reliable means (for example, electronic image, photocopy or facsimile) is considered an original and ii) all Products and Services ordered under this Agreement are subject to it.

Agreed to:  
**Customer Company Name: Alameda County Social Services Agency**

By: Don Edwards  
Authorized signature

Title: Assistant Agency Director  
Name (type or print): Don Edwards

Date: 4-13-2011

Enterprise number: 0107000

Customer address: 2000 San Pablo Ave., Oakland, CA 94612

Agreed to:  
**International Business Machines Corporation**

By: Cinda J. Garrett  
Authorized signature

Title: Quality Assurance Mgr.  
Name (type or print): CINDA J. GARRETT

Date: 4-12-2011

Agreement number:

IBM address: 16715 Bradley Ave.  
Belton, MO 64012

## Exhibit G

### **IBM** Agreement for Exchange of Confidential Information

Our mutual objective under this Agreement is to provide protection for confidential information (Information) while maintaining our ability to conduct our respective business activities. Each of us agrees that the following terms apply when one of us (Discloser) discloses Information to the other (Recipient).

#### 1. Disclosure

Information will be disclosed either:

- 1) in writing;
- 2) by delivery of items;
- 3) by initiation of access to Information, such as may be in a data base; or
- 4) by oral or visual presentation.

Information should be marked with a restrictive legend of the Discloser. If Information is not marked with such legend or is disclosed orally, the Information will be identified as confidential at the time of disclosure.

#### 2. Obligations

The Recipient agrees to:

- 1) use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate; and
- 2) use the Discloser's Information for the purpose for which it was disclosed or otherwise for the benefit of the Discloser.

The Recipient may disclose Information to:

- 1) its employees who have a need to know, and employees of any legal entity that it controls, controls it, or with which it is under common control, who have a need to know. Control means to own or control, directly or indirectly, over 50% of voting shares; and
- 2) any other party with the Discloser's prior written consent.

Before disclosure to any of the above parties, the Recipient will have a written agreement with the party sufficient to require that party to treat Information in accordance with this Agreement.

The Recipient may disclose Information to the extent required by law. However, the Recipient will give the Discloser prompt notice to allow the Discloser a reasonable opportunity to obtain a protective order.

IBM shall comply with all provisions applicable to an information technology services provider contained in the federal Privacy Act and federal and State law governing the confidentiality of personally identifiable information.

#### 3. Confidentiality Period

Information disclosed under this Agreement will be subject to this Agreement for two years following the initial date of disclosure.

#### 4. Exceptions to Obligations

The Recipient may disclose, publish, disseminate, and use Information that is:

- 1) already in its possession without obligation of confidentiality;
- 2) developed independently;
- 3) obtained from a source other than the Discloser without obligation of confidentiality;
- 4) publicly available when received, or subsequently becomes publicly available through no fault of the Recipient; or
- 5) disclosed by the Discloser to another without obligation of confidentiality.

The Recipient may use in its business activities the ideas, concepts and know-how contained in the Discloser's Information which are retained in the memories of Recipient's employees who have had access to the Information under this Agreement.

**5. Disclaimers**

**THE DISCLOSER PROVIDES INFORMATION WITHOUT WARRANTIES OF ANY KIND.**

The Discloser will not be liable for any damages arising out of the use of Information disclosed under this Agreement.

Neither this Agreement nor any disclosure of Information made under it grants the Recipient any right or license under any trademark, copyright or patent now or subsequently owned or controlled by the Discloser.

**6. General**

This Agreement does not require either of us to disclose or to receive Information.

Neither of us may assign, or otherwise transfer, its rights or delegate its duties or obligations under this Agreement without prior written consent. Any attempt to do so is void.

The receipt of Information under this Agreement will not in any way limit the Recipient from:

- 1) providing to others products or services which may be competitive with products or services of the Discloser;
- 2) providing products or services to others who compete with the Discloser; or
- 3) assigning its employees in any way it may choose.

The Recipient will 1) comply with all applicable export and import laws and regulations, including associated embargo and sanction regulations, and 2) unless authorized by applicable governmental license or regulation, not directly or indirectly export or re-export any technical information or software subject to this Agreement (including direct products of such technical information or software) to any prohibited destination or country (including release to nationals, wherever they may be located, of any prohibited country) as specified in such applicable export regulations. This paragraph will survive the termination or expiration of this Agreement and the confidentiality period above and will remain in effect until fulfilled.

Only a written agreement signed by both of us can modify this Agreement.

Either of us may terminate this Agreement by providing one month's written notice to the other. Any terms of this Agreement which by their nature extend beyond its termination remain in effect until fulfilled, and apply to respective successors and assignees.

Both of us consent to the application of the laws of the State of New York to govern, interpret, and enforce all of your and our rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this Agreement, without regard to conflict of law principles.

This Agreement is the complete and exclusive agreement regarding our disclosures of Information, and replaces any prior oral or written communications between us regarding these disclosures. By signing below for our respective enterprises, each of us agrees to the terms of this Agreement. Once signed, any reproduction of this Agreement made by reliable means (for example, photocopy or facsimile) is considered an original.

Agreed to:  
Alameda County Social Services Agency

By: Don Edwards  
Authorized Signature

Name (type or print): Don Edwards

Date: 4-13-2011

Enterprise number: 0107000

Address: 2000 San Pablo Ave. 4<sup>th</sup> floor  
Oakland, CA 94612

Agreed to:  
International Business Machines Corporation

By: Cinda J. Garrett  
Authorized Signature

Name (type or print): CINDA J. GARRETT

Date: 4-12-2011

Agreement number:

IBM address: 16715 Bradley AVE.  
Belton, MO 64012

After signing, please return a copy of this Agreement to the "IBM address" shown above.

**Appendix A – A & B Reports**

Report Name	Resource/SME Responsible	Requirements Completed Yes/No	Source to Target Build Completed Yes/No	Build Priority	Comments	33 reports total - 20 requirements gathered, 15 source to target completed
1. RRR list for scheduling RRRs (EBD) – CIS	Functional - Dorothy Hicks Technical - BChin/Sny	YES	YES	A	ODM 789 (10 - 12 fields still need source to target information)	<b>13 reports need requirements gathered 18 reports need source to target completed</b>
2. EBT out of County Usage – 100% out of county card usage for 90 days or more (EBD/PID) (CIS)	Functional - Barbara Akbarian Technical - Sean Ny/Dellie R	YES	YES	A	ODM 903; D. Raffé *SARS dataset needed	
3. EBT Interface 90% Out of County Usage for 30 days Use CIS Transaction data to track 30 days usage (90%)	Functional - Barbara Akbarian Technical - Sean Ny/Dellie R	YES	YES	A	*SARS dataset needed	
4. IHSS recipient working as an IHSS provider at the same time	Functional - IHSS? Technical - Sean Ny/Dellie R	YES	YES	A	ODM 939 may be related;	
5. Monthly report that identifies all active CalWIN cases with no RRR for 6 or more months override completed (someone initiated RRR queue and has yet to complete, so it never shows up as overdue) (EBD/PID) (CIS) <b>NON-Processed RRRs</b>	Functional - Barbara Akbarian / Dorothy Hicks-Beard Technical - Barbara Chin / Barbara Akbarian	YES	YES	A	ODM 784; G. Coon (1-2 fields still need source to target information)	
6. Monthly report that identified all active CalWIN cases with no QR7 submitted 1 or more quarters – override completed (someone initiated RRR queue and has yet to complete, so it never shows up as overdue) (EBD/PID) (CIS) <b>Non-Processed QR7s</b>	Functional - Terri Donnelly Technical - ?	YES	YES	A	(1-2 fields still need source to target information)	
7. Alameda County Youth served by CFS & Probation (Versa & CWS) a. Flag for all in out of home care for 6 months or more	Functional-Lori J Technical-JenniferU	YES	YES	A	(10 - 12 fields still need source to target information)	
8. Families of CFS Youth receiving other SSA Services (CWS/CIS) a. Flag for all in out of home care for 6 months or more	Functional-Lori J Technical-JenniferU	YES	YES	A	(10 - 12 fields still need source to target information)	
9. Alameda County Cost of Out of Home Placements - CFS	Functional-Lori J Technical-JenniferU	YES	YES	A	Jennifer would like to see this package built first (10 - 12 fields still need source to target information)	

10. Alameda County Foster Care provider receiving other SSA Benefits (CIS & CWS & CMIPS)	Fuctional-Lori J Technical-JenniferU	YES	YES	A	Substitute Care Provider needs to be added to the EAS Resolution to obtain an Entity ID (10 - 12 fields still need source to target information)	
11. GA/FSET Mgmt Report (GA 108)	Fuctional-Endy/Rhonda Technical-Sean Ny	YES		A	Sean to complete report logic	
12. Enhanced Client Overview	Fuctional-Lori J Technical-JenniferU	NO	NO	B	Req gathering needed; team consensus on what questions to ask Program	Req gathering needed; team consensus on what questions to ask Program
14. How many youth are dismissed? Does dismissed mean case closed? Or are you asking about Court dismissal of the child's juvenile dependency - Probation a. Age of those dismissed b. Reason for dismissal	Fuctional-Lori J Technical-JenniferU	YES		B	4 questions still need to be answered by Program	
15. Number of relatives of placed children receiving CalWORKs services? (Versa & CIS)	Fuctional-Gloria M Technical-Kathy Chiang (JennU)	NO	NO	B		Jerome to schedule
16. What youth are being placed (aggregate list)? Location of youth placement Length of time youth is in placement Length of time youth is in Juvenile Hall before placement a. Goal is for Deputies to see how long child has been out of home (Versa)	Fuctional-Gloria M Technical-Kathy Chiang (JennU)	NO		B		Jerome to schedule
17. Alameda County Cost of Out of Home Placements - Probation	Fuctional-Lori J Technical-JenniferU	YES	YES	B	Covered by CFS Version (#9)	Jennifer confirmed this is covered by #9
18. Monthly report that identifies all active/former GA clients applying for CalWORKs - (ESD/PID) - Client loses GA then "discovers" they have a child and applies for CalWORKs (CIS)	Functional - Renaye Johnson / Rhonda Boykin Technical - Sean Ny / Barbara Akbarian	NO		B	Vanessa to follow up w/barb akbarian to see if mtg is needed	Vanessa to follow up w/barb akbarian to see if mtg is needed
19. Monthly report that identified all active/former CalWORKs clients applying for GA - (ESD/PID) - Client Sanctioned in CalWORKs then applies for GA (CIS)	Functional - Renaye Johnson / Rhonda Boykin Technical - Sean Ny / Barbara Akbarian	NO		B	Vanessa to follow up w/barb akbarian to see if mtg is needed	Vanessa to follow up w/barb akbarian to see if mtg is needed
20. One time address change with Benefits issued (CIS)	Functional - Barbara A Technical -	NO		B	Vanessa to schedule meeting	Vanessa to schedule meeting
21. Cases Opened & closed at the same time with benefits issued (CIS)	Functional - Barbara A Technical -	NO		B	Vanessa to schedule meeting	Vanessa to schedule meeting
22. CalWORKs WPR sample report (CIS) Receive sample list of clients from state produce list for ESD sorted by ECs & locations	Functional - Luna Chon(PID) Technical - Dellie R.	YES		B	meeting on 8/26	meeting on 8/26

<p>23. RCA Report for Monthly Audits - report includes: Case number; case name; program description; non-citizen status code; US entry date; time in country; caseload ID; approval status. Dellie generates this report and it is essential for Operations to ensure we are in compliance with RCA regs (ESD) (CIS &amp; SMART?)</p>	<p>Fuctional - Nermina Terovic Technical - Dellie R./ Ryan Aldna</p>	<p>YES</p>	<p>B</p>	<p>ODM 578; no backup for any other report either! Can we use cis mapping tool?</p>	
<p>24. CalWORKs temporary exemption list - a report that shows all cases that meet new temp exemption (one child 12-23 months or 2 children under 6) but exemption has not been applied _ Jim compiles the data for this report every two weeks; Lorena spends hours sorting and reviewing data (ESD) (CIS)</p>	<p>Fuctional - Antoinette Burns (Lorena Briseno avail until 7/16) Technical - Jim Cunnif</p>	<p>YES</p>	<p>B</p>	<p>Can we use cis mapping tool?</p>	
<p>25. Performance Management Report: Manages performance of Self-Sufficiency Ctrs (ESD) (CIS) a. Measures WPR b. Measures unengaged c. # in qual. activities w/o hours d. # in qual. activities w/o mtg WPR rate e. Measures % completing plan w/in 90 days of approval f. Measures number of clients placed in Sanction g. curing sanction &gt;30 days h. Sanction &gt;50 days i. Non-compliance &gt;20 days j. Employment k. % from Job Club to Employment w/in 45 days l. % from Supervised Job Search to Employment w/in 45 days</p>	<p>Fuctional - Endy G./Sam T. Technical - Sean Ny</p>	<p>YES</p>	<p>B</p>	<p>Can we use cis mapping tool?</p>	
<p>26. Client Overview Aggregate: Compilation of all clients in the SSIRS Warehouse (CWS, CalWIN, CMIPS, Versaform, SMART) and their associated events and activities</p>	<p>Fuctional - Lori Jones Technical - Jennifer Uldrichs</p>	<p>NO</p>	<p>B</p>		<p>Req gathering needed; team consensus on what questions to ask Program</p>
<p>27. Cal Learn Reports (ESD) (CIS &amp; SMART?) a. Cal Learn approved and unassigned to ES - Mildred Papa possible generates this report; b. Cal Learn report that includes new enrollments for report month;</p>	<p>Fuctional - Nermina T Technical - Mildred Papa</p>	<p>YES</p>	<p>B</p>	<p>CL would be a subset of CW not assigned to ES, # 14</p>	
<p>28. CalWORKs approved and unassigned to ES (high priority - if we can get this report it may eliminate problems with EBD)_not consistently run for Departments (EBD/ESD) (CIS)</p>	<p>Fuctional - Technical - Barbara Chin</p>	<p>YES</p>	<p>B</p>	<p>ODM 548; B. Chin (meeting 9/1 with ebd)</p>	<p>meeting 9/1 with ebd</p>
<p>29. Automated report/list that sends attendance reports to all WTW clients in VTR or educational activities. Dellie does this report but when she is not available to do the file the information does not go out (ESD) (CIS)</p>	<p>Fuctional - Rhonda Boykin Technical - Sydelle Raffé</p>	<p>NO</p>	<p>B</p>	<p>ODM 725; no backup for any other mailings either! (Priority report for ESD - FULL req/gather session needed)</p>	<p>(Priority report for ESD- FULL req/gather session needed)</p>
<p>30. Automated report/list that sends notice to all sanctioned clients they can cure their sanction. Dellie does this report and has asked to skip due to workload. (ESD) (CIS)</p>	<p>Fuctional - Rhonda Boykin Technical - Sydelle Raffé</p>	<p>NO</p>	<p>B</p>	<p>ODM 802 (Priority report for ESD- FULL req/gather session needed)</p>	<p>(Priority report for ESD- FULL req/gather session needed)</p>

31. IHSS Caseload Report	Fuctional - Edilyn Dumapias Technical - VKV/SMF	YES	YES	B		
32. IHSS total monthly termination list	Fuctional - Edilyn Dumapias Technical - VKV/SMF	YES	YES			
33. IHSS total monthly denials	Fuctional - Edilyn Dumapias Technical - VKV/SMF	YES	YES			
34. IHSS Total Monthly Recipient Hours Authorization	Fuctional - Edilyn Dumapias Technical - VKV/SMF	YES			Authorized hours and rate fields need to mapped	Authorized hours and rate fields need to mapped

**EXHIBIT C**

**COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS**

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following insurance coverage, limits and endorsements:

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
<b>A</b>	<b>Commercial General Liability</b> Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability	\$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
<b>B</b>	<b>Commercial or Business Automobile Liability</b> All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability is acceptable for individual contractors with no transportation or hauling related activities	\$1,000,000 per occurrence (CSL) Any Auto Bodily Injury and Property Damage
<b>C</b>	<b>Workers' Compensation (WC) and Employers Liability (EL)</b> Required for all contractors with employees	WC: Statutory Limits EL: \$100,000 per accident for bodily injury or disease
<b>D</b>	<p><b>Endorsements and Conditions:</b></p> <ol style="list-style-type: none"> <li><b>ADDITIONAL INSURED:</b> All insurance required above with the exception of Personal Automobile Liability, Workers' Compensation and Employers Liability, shall be endorsed to name as additional insured: <b><u>County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees and representatives.</u></b></li> <li><b>DURATION OF COVERAGE:</b> All required insurance shall be maintained during the entire term of the Agreement with the following exception: Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until 3 years following termination and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement.</li> <li><b>REDUCTION OR LIMIT OF OBLIGATION:</b> All insurance policies shall be primary insurance to any insurance available to the Indemnified Parties and Additional Insured(s). Pursuant to the provisions of this Agreement, insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties.</li> <li><b>INSURER FINANCIAL RATING:</b> Insurance shall be maintained through an insurer with a A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to the County. Acceptance of Contractor's insurance by County shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor.</li> <li><b>SUBCONTRACTORS:</b> Contractor shall include all subcontractors as an insured (covered party) under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.</li> <li><b>JOINT VENTURES:</b> If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by any one of the following methods: <ul style="list-style-type: none"> <li>Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured (covered party), or at minimum named as an "Additional Insured" on the other's policies.</li> <li>Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured.</li> </ul> </li> <li><b>CANCELLATION OF INSURANCE:</b> All required insurance shall be endorsed to provide thirty (30) days advance written notice to the County of cancellation.</li> <li><b>CERTIFICATE OF INSURANCE:</b> Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to County, evidencing that all required insurance coverage is in effect. The County reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The require certificate(s) and endorsements must be sent to: <ul style="list-style-type: none"> <li>Department/Agency issuing the contract</li> <li>With a copy to the Contracts Office (2000 San Pablo Ave. 4<sup>th</sup> floor, Oakland, CA 94612)</li> </ul> </li> </ol>	



# ADDITIONAL INFORMATION

CERTIFICATE NUMBER  
140657

**PRODUCER**

Aon Risk Services Northeast, Inc.  
199 Water Street  
New York, NY 10038  
Phone: 866.266.7475  
Fax: 866.467.7847

**COMPANIES AFFORDING COVERAGE**

**INSURED**

International Business Machines Corp.  
1 New Orchard Road  
Armonk, NY 10504  
United States

**TEXT**

Project: Implementation Credit for Identify Insight

If there is a question regarding this certificate please contact Allison Morais  
(Email: amorais@us.ibm.com Phone: 508-473-3303)

All operations incidental to the conduct of insured's business in the United States of America.

**CERTIFICATE HOLDER**

COUNTY OF ALAMEDA- Social Services Agency  
2000 San Pablo Ave.  
4th Floor  
Oakland, CA 94612  
United States

# CERTIFICATE OF INSURANCE

CERTIFICATE NUMBER  
129120

**PRODUCER**

Aon Risk Services Northeast, Inc.  
199 Water Street  
New York, NY 10038  
Phone: 866.266.7475  
Fax: 866.467.7847

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER OTHER THAN THOSE PROVIDED IN THE POLICY. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES DESCRIBED HEREIN.

**COMPANIES AFFORDING COVERAGE**

COMPANY A: ACE American Insurance Company

**INSURED**

International Business Machines Corp.  
& Any Other Subsidiary Corp. Owned or Controlled by the Insured  
1 New Orchard Road  
Armonk, NY 10504  
United States

**COVERAGES**

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

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION	LIMITS	
A	GENERAL LIABILITY	HDOG24941978	5/21/2010	5/21/2011	GENERAL AGGREGATE	\$10,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL				PRODUCTS - COMP/OP AGG	\$10,000,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCU				PERSONAL & ADV INJURY	\$10,000,000
	<input type="checkbox"/> OWNER'S & CONTRACTOR'S				EACH OCCURRENCE	\$10,000,000
					FIRE DAMAGE (Any one fire)	\$10,000,000
					MED EXP (Any one person)	\$25,000.00
A	AUTOMOBILE LIABILITY	ISAH08590151	5/21/2010	5/21/2011	COMBINED SINGLE LIMIT	\$10,000,000
	<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	
	<input type="checkbox"/> ALLOWED AUTOS				BODILY INJURY (Per accident)	
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE	
	<input type="checkbox"/> HIRED AUTOS					
	<input type="checkbox"/> NON-OWNED AUTOS					

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS**

Please see page 2 for any additional language.

**CERTIFICATE HOLDER**

County of Alameda, its Board of Supervisors, the individual  
1221 Oak St  
Oakland, CA 94612  
United States

**CANCELLATION**

SHOULD ANY OF THE POLICIES DESCRIBED HEREIN BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE INSURER AFFORDING COVERAGE WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER AFFORDING COVERAGE, ITS AGENTS OR REPRESENTATIVES, OR THE ISSUER OF THIS CERTIFICATE.

Authorized Representative:  
Aon Risk Services Northeast, Inc.

*Aon Risk Services Northeast, Inc.*

**VALID AS OF: 5/20/2010**

# ADDITIONAL INFORMATION

CERTIFICATE NUMBER  
129120

**PRODUCER**

on Risk Services Northeast, Inc.  
199 Water Street  
New York, NY 10038  
Phone: 866.266.7475  
Fax: 866.467.7847

**COMPANIES AFFORDING COVERAGE**

**INSURED**

International Business Machines Corp.  
& Any Other Subsidiary Corp. Owned or Controlled by the Insured  
1 New Orchard Road  
Armonk, NY 10504  
United States

**TEXT**

County of Alameda, its Board of Supervisors, the individual is hereby named as an additional insured on General Liability policies but only to the extent that their interest may appear.

County of Alameda, its Board of Supervisors, the individual is hereby named as an additional insured on Auto Liability policies but only to the extent that their interest may appear.

Project: County Government Customer

If there is a question regarding this certificate please contact Michael McGuire  
(Email: mmcguire@us.ibm.com Phone: 916-920-6030)

All operations incidental to the conduct of insured's business in the United States of America.

**CERTIFICATE HOLDER**

County of Alameda, its Board of Supervisors, the individual  
1221 Oak St  
Oakland, CA 94612  
United States



**FEDERAL GRANT FUNDS  
SMALL LOCAL EMERGING BUSINESS (SLEB) WAIVER REQUEST**

REQUIRED TO SOLICIT BIDS/PROPOSALS AND AWARD CONTRACTS  
THAT INCLUDE FEDERAL GRANT FUNDS THAT PROHIBIT GEOGRAPHICAL PREFERENCES

**DIRECTIONS:**

Complete 1-6 below and submit this form with supporting documentation specifically stating that geographic preferences are banned for the requested procurement to the Auditor Controller OCC at QIC 20111 or via email to ACSLEB Waiver. Upon approval, a Federal Funds Waiver number will be issued. This number is a mandatory field required to enter a Procurement Contract in ALCOLINK. OCC will return approvals and denials to the Requesting Department listed below.

1. Requesting Department/Contact Information:

- a. Department/Contact Information: Social Services Agency / Administration & Finance
- b. Contact First and Last Name: Kathy Chen QIC: 20203
- c. Email Address: kchen@acgov.org Phone Number: 267-9459

2. Procurement Description: Purchase of consulting services from IBM for continued completion of logical and physical architecting of the Agency's Integrated Reporting System Data Warehouse programs: Versa Form (JV Probation), CMPS (In-Home Support Services), Smart Database (Employment & Adoption). CFDA\* No.: 93.659 & 93.558

3. Indicate if Waiver is being requested to solicit bids and/or award a contract:

- Waiver request to **Solicit Bids** without SLEB provisions.
- Waiver request to **Award Contract** with County Counsel approved modified SLEB provisions Contractor name/City: International Business Machines Corporation (IBM).

**New Contract** Total Contract Value: \_\_\_\_\_  
Contract Start Date: \_\_\_\_\_ Contract End Date: \_\_\_\_\_

**Contract Amendment**  Time  Money Increase Amount \$ \_\_\_\_\_

4.  Check here if the Code of Federal Regulations (CFR) specifically prohibits geographical Preference for the procurement described above and supporting CFR copy is attached.  
CFR Number: 45 CFR part 92 CFR Name: Health & Human Services

5.  Check here if Federal grant funds are sub granted or passed through from the State to the County where State laws prohibit geographical preferences for the procurement described above and supporting sub grant documents **are attached**.

State Regulation Name/Number: \_\_\_\_\_

6. Amy Thompson for 2-28-11  
Signature of Agency/Department Head Date

RECEIVED  
2011 MAR -1 PM 12:00  
ALAMEDA COUNTY AUDITOR

<b>OCC to complete:</b>	
A. Request Approved <input checked="" type="checkbox"/> Waiver Expiration Date <u>2/28/12</u> Federal Funds SLEB Waiver # <b>F 229</b>	
B. Request Denied <input type="checkbox"/> Reason: _____	
<u>[Signature]</u> Signature of Auditor-Controller Office of Contract Compliance	<u>3/1/11</u> Date