



Offshore Subcontracting Attestation

Complete Part 1 of this Offshore Subcontracting Attestation (“**Attestation**”) if your organization stores data offshore, or, provides access to protected health information (“**PHI**”), personally identifiable information (“**PII**”), or confidential information to offshore subcontractors, employees, contractors, resources, vendors, or delegates , at a location outside the United States and its territories. Only complete Part 2 of this Attestation if your Organization does not store data offshore or utilize offshore subcontractors, as that term is defined below.

This document acknowledges that [*Insert Name of Provider/Vendor*], (referred to as "**Organization**") is contracted with CalOptima Health.

PART 1. USE OF OFFSHORE SUBCONTRACTOR.

The Organization has entered a contractual relationship with an offshore subcontractor(s), employees, contractors, resources, vendors, or delegates that stores or has direct access to PHI or PII pertaining to CalOptima Health members, and such offshore subcontractors, employees, contractors, resources, vendors, or delegates of the Organization do not reside within borders of the United States of America and its territories. For the purposes of this acknowledgment, this entity will be referred to as "**Offshore Subcontractor.**"

Confidential Information” shall mean any and all confidential or proprietary information, know-how and data, technical or non-technical, disclosed or provided by one party to the other, whether in oral, written, graphic, photographic, electronic or any other form and that is marked or identified as confidential. Confidential Information does not include subject matter and information:

- a. that is or becomes generally known or available to the public without breach of the underlying contractual Agreement;
- b. that is known to the receiving party at the time of disclosure as evidenced by written records of the receiving party;
- c. that is known or independently developed by the receiving party without reliance upon the disclosing party’s Confidential Information and can be proven as such through written records of the receiving party; or
- d. that is disclosed to the receiving party in good faith by a third party who has an independent right to such subject matter and information.

All information disclosed in tangible form under this Agreement shall be conspicuously marked in writing as “Confidential Information”. All information disclosed in oral or other intangible form shall be identified as confidential at the time of disclosure and confirmed in written summary form marked “Confidential Information” and transmitted to the receiving party within 30 days of its disclosure.

CMS’s Definition of Offshore Subcontractor: The term “subcontractor” refers to any organization that a Medicare Advantage Organization, Part D Sponsor, or First Tier, Downstream or Related Entity (FDR) contracts with to fulfill or help fulfill requirements in their Part C and/or Part D contracts. The term “offshore” refers to any country that is not one of the fifty United States or one of the United States Territories (American Samoa, Guam, Northern Marianas, Puerto Rico, and Virgin Islands). Examples of countries that meet the definition of “offshore” include Mexico, Canada, India, Germany, and Japan. Subcontractors that are considered offshore can be either American-owned companies with certain portions of their operations performed outside of the United States or foreign-owned companies with their operations performed outside of the United States. Offshore Subcontractors provide services that are performed by workers located in offshore countries, regardless of whether the workers are employees of American or foreign companies.

Note: A separate Attestation form is required for each Offshore Subcontractor that the Organization uses.

Which CalOptima Health program(s) does this form pertain to? Select all that apply.	<input type="checkbox"/> Medi-Cal <input type="checkbox"/> PACE	<input type="checkbox"/> OneCare
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I. Offshore Subcontractor Information	
Our Organization uses an offshore subcontractor or offshore staff to perform functions that support our contract with CalOptima Health *	<input type="checkbox"/> Yes <input type="checkbox"/> No
Offshore Subcontractor Name*:	
Offshore Subcontractor Address(es)*:	
Describe Offshore Subcontractor Functions*:	
Effective date when the Offshore Subcontractor began or will begin performing services and when the current contract ends*	

II. Precautions for Protected Health Information (PHI) and CalOptima Data	
Describe data stored off shore:	
Describe the PHI/PII that will be provided/accessed by the Offshore Subcontractor*:	
Describe why providing PHI/PII is necessary to accomplish the Offshore Subcontractor objectives*:	
Describe alternatives considered to avoid providing PHI, and why the alternatives were rejected*:	
Describe the controls protecting PHI/PII data, including but not limited to storage and access of PHI/PII data:	

III. Attestation of Safeguards to Protect Beneficiary Information, Protected Health Information, and other CalOptima data			
Item	Attestation	Yes	No

A	Offshore subcontracting arrangement has policies and procedures in place to ensure that PHI and other personal information remains secure.*		
B	Offshore subcontracting arrangement prohibits Offshore Subcontractor’s access to CalOptima’s PHI that is not associated with the Organization’s contract with the Offshore Subcontractor.*		
C	Offshore subcontracting arrangement has policies and procedures in place that allow for immediate termination of the subcontract upon discovery of a significant security breach.*		
D	Offshore subcontracting arrangement does not allow remote working.		
E	Offshore subcontracting requires desktop equipment to be locked down to prevent data downloading, screen shots, etc.		
F	The Organization maintains cyber insurance and general liability coverage at least at the minimum amounts required under the contract between the Organization and CalOptima Health that covers the conduct of the Offshore Subcontractor.		
G	The Organization agrees to immediately notify CalOptima Health of a breach involving Offshore Subcontractor.		
H	Offshore subcontracting arrangement includes all required Medicare Parts C & D language (e.g., record retention requirements, compliance with all Medicare Parts C & D requirements, etc.).*		
I	Organization will conduct an annual audit of the Offshore Subcontractor.*		
J	The Organization will use audit results to evaluate the continuation of its relationship with the Offshore Subcontractor.*		
K	Upon request, Organization agrees to share Offshore Subcontractor’s audit results with CalOptima Health.*		

*Explanation required for all “no” responses to Part III.

As an authorized representative of the Organization, I attest that the answers provided are complete and accurate to the best of my knowledge and that documentation to support the responses will be made available to CalOptima Health upon request. This approval is conditional upon such outsourced services functioning only as described to CalOptima and complying with all applicable state and federal laws. It is also subject to DHCS approval. CalOptima Health does not approve beyond what was described in your notification, and CalOptima reserves the right to revoke this approval at any time, including as directed by state or federal regulators or due to a change in state

or federal law. I understand that CalOptima Health may conduct an audit to confirm the attestations (with at least 30 days' notice).

Name (Printed)

Signature

Title

Name of Organization

Date

Foreign Affiliation and Prohibited Country Attestation

Organization attests and certifies that neither it nor any of its subcontractors, vendors, agents, or affiliates that may have access to, including capability to view, process, store, or transmit member data—inclusive of Protected Health Information (PHI), Personally Identifiable Information (PII), or other sensitive information—has any ownership interest, control, or nexus with entities located in or subject to the jurisdiction of any country designated by the United States Department of Justice as a “country of concern.” (28 CFR Part 202) These countries currently include, but are not limited to: the People’s Republic of China (including Hong Kong and Macau), Russia, Iran, North Korea, Cuba, and Venezuela.

Organization further certifies that it shall not engage any third party that is organized under the laws of, owned by, or controlled (directly or indirectly) by any individual or entity from a country of concern for any services involving access to or handling of plan member data. Any change in ownership, subcontracting relationships, or data processing activities that would cause this attestation to no longer be accurate must be disclosed in writing within five (5) business days, and shall constitute grounds for immediate termination of the agreement for cause.

Name (Printed)

Signature

Title

Name of Organization

Date

