



June 26, 2013

Gary Cohen
Deputy Administrator and Director
Center for Consumer Information and Insurance Oversight
200 Independence Avenue, SW
Washington, DC 20201

Subject: Covered California's Transparency Practices

Dear Mr. Cohen,

As Covered California works hard to ensure effective implementation of the Affordable Care Act, integrity is an essential guiding principle and the key to earning the public's trust in our effective stewardship of public resources. We therefore welcome the opportunity to respond to the concerns that have been raised about the level of transparency at Covered California.

Central to Covered California's mission and vision are the values of accountability, responsiveness, and transparency. Consistent with these values, Covered California has released all documents and information that members of the public have requested, with the exception of trade secrets and proprietary information submitted under the guarantee of confidentiality. Specifically:

- Covered California releases all contracts requested under the Public Records Act, with appropriate redactions of confidential or personal information that are consistent with exemptions available to all state agencies; and
- Each quarter Covered California itemizes and reports all contracts directly to the Center for Consumer Information and Insurance Oversight (CCIIO), including awardee, award date and amount, performance period and overview of services provided.

Covered California has integrated transparency into the core of its planning processes. This has included the development of Covered California's most important contracts, examples include:

- The solicitation to develop Covered California's information technology system, now called the California Healthcare Eligibility, Enrollment and Retention System (CalHEERS), included a robust public input process in developing the specifications for the contract, engaging stakeholders and providing regular updates at board meetings and through webinars; and
- Covered California's model contract with its participating qualified health plans, which was the product of extensive stakeholder engagement at each step of the process.

Iterative drafts of the model contract were posted on Covered California's website and were subject to public discussion at board meetings and webinars.

Covered California has created a formalized process to engage stakeholder participation in its key operational areas, including standing advisory groups for marketing, health plan management, the Small Business Health Options Program (SHOP), and tribal issues. These advisory group meetings, which are open to the public, are composed of a broad array of stakeholders and provide important guidance and oversight.

Covered California is governed by a multi-member board, with all board meetings are subject to the state's Bagley-Keene Open Meeting Act, which requires all meetings of state boards and commissions to be publicly noticed with an agenda at least 10 days before the meeting. The board can and does hold closed sessions when considering matters related to litigation, personnel, contracting, and rates. Additionally, the board must grant the public an opportunity to provide comment at its meetings. On average, board meetings draw 150 attendees with public comment provided by one-fourth of all participants. All board meetings are webcast with opportunities for phone participants to ask questions or comment. These board meetings include web-posted minutes, agendas, stakeholder comments, and all meeting materials on the Covered California website.

Examples of budget and contracting documents publicly disclosed on our website, www.hbex.ca.gov, or discussed at the public session of our board meetings, include:

- The awardee, award date and amount, performance period and overview of services provided of all competitively bid contracts, after board approval during the respective board meeting's closed session;
- Board meeting minutes;
- Covered California's annual business plan and budget;
- Establishment grant applications and awards; and
- An annual report, including a description of Covered California's operation and funding.

We are also attaching a sample of budget-related documents that have been publicly presented at past board meetings and posted on our website.

The California legislation that created Covered California (Chapter 655, Statutes of 2010 and Chapter 659, Statutes of 2010) provided broad authority to our Board to negotiate with health plans to get the best value for consumers. The legislation recognized that Covered California may need to obtain confidential information from health plans and other vendors. Covered California's authorizing statute provides an exemption from disclosure under the Public Records Act of records that reveal any portion of negotiations and other documents submitted to Covered California in consideration of a contract, such as the deliberative process or discussions, as well as meeting minutes, board or staff recommendations, work product, or research. The authorizing statute further provides an exemption from disclosing contracts for one year after their effective dates, except for rates of payments, which can remain confidential perpetually.

As already noted, Covered California has not used its authority to shield contracts from Public Records Act requests, and instead has adopted a practice of disclosure that mirrors other state agencies that engage in health plan contracting. Senate Bill 332, bipartisan legislation introduced by Senators Bill Emmerson and Mark DeSaulnier, is intended to harmonize our current transparency practices with Covered California's statutory authority. If passed, the law would require Covered California to, for example, release:

- Contracts upon request, except for those with participating carriers, which must be released upon request one year after execution; and
- The portions of contracts with participating carriers that contain rates of payment three years after the contract was opened to inspection.

As explained above, SB 332 is not only consistent with Covered California's disclosure policy in response to Public Records Act requests, but additionally reflects our commitment to being transparent far beyond responding to these requests.

Covered California has also recently released the plans and rates that will be available to consumers when open enrollment begins in just a few short months. We're very proud of our 13 partner plans and the affordable rates we negotiated with them. We're off to a good start, and the success of our negotiations gives testimony to the effectiveness of our approach to transparency and to fostering competition through a competitive process.

Finally, we are both mindful and appreciative of the extensive oversight exercised by the Centers for Medicare & Medicaid Services. Your stewardship over the federal funding provided to Covered California adds another important layer of transparency that assures a high level of public accountability.

Thank you for giving us the opportunity to update you on Covered California's transparency practices and policies. We are happy to address any questions you may have. Covered California is deeply committed to operating with integrity and earning the trust of those we serve. We hope this letter provides a demonstration of the measures we have taken to be accountable, responsive and transparent.

Sincerely,



Peter V. Lee
Executive Director

cc: Board of Directors, Covered California

Attachment: Budget-Related Documents Presented at Covered California Board Meetings

ATTACHMENT

Budget-Related Documents Presented at Covered California Board Meetings*

- **June 20, 2013 Board Meeting:**
 - 2012-13 Status Report and 2013-14 Budget Proposal presented to Covered California's Board (draft presented at May 23, 2013 meeting)
- **January 17, 2013 Board Meeting:**
 - 2012 Annual Report, including transparency statement and operations and funding
- **November 14, 2012 Board Meeting:**
 - Presentation – Building Covered California: Blueprint Overview and Establishment Grant
 - Level II Establishment Grant – DRAFT Budget Plan Summary
 - Level II Establishment Grant – DRAFT Financial Sustainability Plan
 - California Health Benefits Exchange Level I (1.2) Establishment Grant Application, Budget and Budget Narrative
 - California Health Benefits Exchange Level I Establishment Grant Application, Budget and Budget Narrative
- **June 12, 2012 Board Meeting:**
 - Presentation – Business Plan and Budget for August 15, 2012 – June 30, 2013, Application Prepared for Federal Establishment Grant Level 1.2
 - Business Plan and Budget for August 15, 2012 – June 30, 2013, Application Prepared for Federal Establishment Grant Level 1.2
- **May 11, 2011 Board Meeting:**
 - California Exchange Planning Grant Budget Amendments

*All documents are posted on the Covered California website, www.hbex.ca.gov