



COMMENTS

of

**WASHINGTON LEGAL FOUNDATION**

to the

**CALIFORNIA PRIVACY PROTECTION AGENCY**

Concerning

**CALIFORNIA PRIVACY RIGHTS ACT PROPOSED REGULATIONS**

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August 17, 2022



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August 17, 2022

**VIA EMAIL (regulations@coppa.ca.gov)**

Attn: Brian Soublet  
California Privacy Protection Agency  
2101 Arena Blvd.  
Sacramento, California 95834

Re: Washington Legal Foundation's comment on CPPA Rulemaking /  
CPPA Public Comment

The law firm of Greenberg Traurig LLP is pleased to submit this comment on behalf of the Washington Legal Foundation ("WLF") concerning the economic analysis submitted by the California Privacy Protection Agency ("CPPA") along with its proposals for regulations (the "Proposed Regulations") implementing the California Privacy Rights Act ("CPRA").

Founded in 1977, WLF is a nonprofit, public-interest law firm and policy center with supporters nationwide, including many in California. WLF promotes free enterprise, individual rights, limited government, and the rule of law. To that end, WLF often appears as *amicus curiae* in important administrative law cases. Additionally, WLF's Legal Studies division regularly publishes papers by outside experts on state and federal regulatory overreach.

As detailed below, the CPPA did not complete a full or accurate economic analysis of the Proposed Regulations as is required by the California Administrative Procedure Act ("APA"). Instead, it submitted a shorthand Economic Impact Statement ("EIS") that grossly underestimates the full economic impact of the Proposed Regulations on California businesses.<sup>1</sup> Not only did this underestimation result in an incorrect public disclosure that is being relied on by consumers and businesses in their consideration of the Proposed Regulations, it also led to the CPPA incorrectly treating the Proposed Regulations as a non-major regulation – effectively denying a proper review by the Department of Finance ("DOF") and the Office of Administrative Law ("OAL").

Although the EIS is vulnerable to several criticisms,<sup>2</sup> this comment focuses on the CPPA's insufficient analysis of new requirements imposed on businesses by the Proposed Regulations. The

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<sup>1</sup> The APA uses the term "Economic Impact Assessment" whereas the CPPA uses the term "Economic Impact Statement." We use the term Economic Impact Statement and the acronym EIS throughout this comment for consistency.

<sup>2</sup> For example, the EIS states that the CPPA does not expect a significant direct negative impact on investment in California. Studies conducted on jurisdictions that passed similarly comprehensive privacy laws and regulations (like the European GDPR) found significant negative impacts on investment. *See e.g.*, Mical S. Gal & Oshrit Aviv, *The Competitive Effects of the GDPR*, 2020 J. COMPET. L. & ECON. 1, 6, <https://ssrn.com/abstract=3548444> (finding that the GDPR negatively impacted the number of venture deals in the

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CPPA concluded that the **66 pages** of revisions and amendments to the current privacy regulations would only lead to three new compliance obligations, which businesses could purportedly satisfy with de minimis time and resources: 1.5 hours of compliance effort — less than \$200 per business. Indeed, the 1.5 hours of time contemplated by the CPPA would be insufficient for companies to even read the 66 pages of privacy regulations, let alone implement them. In actuality, the Proposed Regulations **include over 45 new compliance requirements that were not evaluated by the CPPA**. When those 45 compliance obligations are included, it becomes clear that what the CPPA is proposing will have a much larger economic impact on businesses, and that the Proposed Regulations are a “major regulation” under the APA requiring enhanced review by the OAL and the DOF.

For the reasons stated above, the Proposed Regulations should be returned to the CPPA for the preparation of a Standard Regulatory Impact Analysis (“SRIA”) as is required for major regulations, and should be resubmitted to the DOF and the OAL as part of a new notice-and-comment period. The resubmission of a full economic analysis using the SRIA process is needed to ensure that the public has a chance to review and comment on the Proposed Regulations *within the context* of the actual economic impact that the Proposed Regulations are likely to have.

## 1. The Rulemaking Process

The APA governs how state agencies, such as the CPPA, may issue regulations. The rulemaking procedures and standards of the APA “are designed to provide the public with a meaningful opportunity to participate in the adoption of regulations or rules that have the force of law by California state agencies and to ensure the creation of an adequate record for the OAL and judicial review.”<sup>3</sup> In other words, proper rulemaking procedures allow the public to understand and engage with regulations that would affect them directly, and ensure that future judicial and administrative reviews are accessible and fair.

The APA divides regulations into two categories: major regulations and non-major regulations. A major regulation is defined as a proposed regulation that may have an “economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars (\$50,000,000), as estimated by the agency.”<sup>4</sup> Proposals that will have an impact of less than \$50 million are considered non-major regulations.

Proposals that are considered non-major regulations are subject to reduced analysis obligations and oversight. Specifically, if an agency intends to propose a non-major regulation, it only needs to file an EIS, which will be reviewed by the OAL for facial consistency (for example, whether

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EU, the size of the deals, and the overall amount of dollars invested). The CPPA does not discuss or address these studies, let alone conduct an analysis as to whether California may experience similar negative impacts. This gap is particularly ironic given that the CPPA’s consultant expressly compares the Proposed Regulations to the requirements of the GDPR. *See* BERKELEY ECON. ADVISING & RSCH., CALIFORNIA CONSUMER PRIVACY AGENCY NOTES ON ECONOMIC IMPACT ESTIMATES FOR FORM 399, at 8-9 (2022) [https://cppa.ca.gov/regulations/pdf/std\\_399\\_attachment.pdf](https://cppa.ca.gov/regulations/pdf/std_399_attachment.pdf) [hereinafter BEAR Report].

<sup>3</sup> *Rulemaking Process*, OFF. OF ADMIN. L., [https://oal.ca.gov/rulemaking\\_process/](https://oal.ca.gov/rulemaking_process/) (last visited July 29, 2022).

<sup>4</sup> CAL. GOV’T. CODE § 11342.548 (West 2022).

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the EIS was completed and was included within the rulemaking file) and published for notice and comment.<sup>5</sup>

In contrast, an agency that intends to propose a major regulation must submit a SRIA, which is far more comprehensive than a regular EIS and subject to heightened scrutiny by the DOF and OAL. The following summarizes the practical impact of a proposed regulation that is classified as a major regulation:

1. Advance notice to the DOF by February 1st. Any agency that intends to propose a major regulation must notify the DOF of its intention by February 1<sup>st</sup> through the submission of a form DF-130.<sup>6</sup>
2. The DOF Publishes Notice of the Major Regulation. The DOF must independently publish a notice of the proposed major regulation.<sup>7</sup>
3. Creation of SRIA. The agency must prepare a SRIA<sup>8</sup> which must address, among other things, the “competitive advantages or disadvantages for businesses currently doing business within the state”<sup>9</sup> and “each regulatory alternative for addressing the stated need for the proposed major regulation, including each alternative that was provided by the public or another governmental agency and each alternative that the agency considered; all costs and all benefits of each regulatory alternative considered; and the reasons for rejecting each alternative;”<sup>10</sup>
4. SRIA Submitted 60 - 90 days prior to Notice of Proposed Rulemaking. The agency must submit a SRIA to the DOF “[n]ot less than 60 days prior to filing a notice of proposed action with OAL” or “[n]ot less than 90 days prior to filing a notice of proposed action with OAL if the agency has not notified the department of the proposed major regulation” by February 1.<sup>11</sup>
5. Public Notice of the SRIA before the Notice of Proposed Rulemaking. Within 10 days of receiving the SRIA, the DOF must post a copy of the SRIA online and send a copy directly to all relevant government agencies.<sup>12</sup>

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<sup>5</sup> CAL. GOV'T. CODE § 11346.3(b) (West 2022). *See also* CAL. GOV'T. CODE § 11349.1(d)(2) (West 2022) (stating that OAL should return any regulation that has not complied with the obligation under Cal. Gov't. Code § 11346.3 (West 2022) to complete an EIS and to include the EIS within the rulemaking file).

<sup>6</sup> CAL. CODE. REGS. tit. 1, § 2001(a)(1) (2022). If notification is not possible by February 1st, the Propounding Agency must submit its notice “as soon as possible but in no event later than 60 days prior to filing a notice of proposed action with the OAL [Office of Administrative Law].” CAL. CODE. REGS. tit. 1, § 2001(a)(2) (2022).

<sup>7</sup> CAL. CODE. REGS. tit. 1, § 2001(a)(c) (2022).

<sup>8</sup> CAL. GOV'T. CODE § 11346.3(c)(1) (West 2022).

<sup>9</sup> CAL. GOV'T. CODE § 11346.3(c)(1)(C) (West 2022).

<sup>10</sup> CAL. CODE. REGS. tit. 1, § 2002(c)(8) (2022).

<sup>11</sup> CAL. CODE. REGS. tit. 1, § 2002(a)(1), (2) (2022).

<sup>12</sup> CAL. CODE. REGS. tit. 1, § 2002(d), (e) (2022).

6. Independent Review and Evaluation. The DOF must then independently evaluate whether the SRIA adheres to the requirements of the APA.<sup>13</sup>
7. Comments from DOF. After conducting its analysis, the DOF must transmit its independent and objective comments to the agency within 30 days.<sup>14</sup>
8. Consideration by Propounding Agency. The propounding agency must respond to the DOF comments and issue a “statement of the results of the updated analysis.”<sup>15</sup>
9. Submission to the Public. Only after all of the above occurs may the agency publish the regulation for notice and comment.<sup>16</sup>

The requirement for agencies to exhaustively document the full economic impact of a major regulation through a SRIA is a core feature of the regulatory process. A complete, thorough, and accurate impact of a proposed regulation is necessary for the propounding agency to “provide [other] agencies and the public with tools to determine whether the regulatory proposal is an efficient and effective means of implementing the policy decisions enacted in statute.”<sup>17</sup> Only by “inform[ing] the agencies and the public of the economic consequences of regulatory choices” can the public fully participate in the rulemaking process. Without such information, the public and impacted businesses are not fairly put on notice of the impact a proposed regulation may have on them and thus cannot meaningfully decide whether to invest the time and resources needed to participate in the comment process.<sup>18</sup>

Additionally, the major regulation process is crucial to the propounding agency’s ability to solicit and consider regulatory alternatives and ensure that the “proposed action is the most effective, or equally effective and less burdensome, alternative in carrying out the purpose for which the action is proposed, or the most cost-effective alternative to the economy and to affected private persons that would be equally effective in implementing the statutory policy or other provision of law.”<sup>19</sup> Without taking the necessary steps to identify all alternatives that are just as effective but potentially less costly, the potential for overly burdensome and unnecessary regulations grows.

In any event, California courts have held that a failure to follow the process for submitting major regulations can invalidate final regulations in their entirety, rendering them unenforceable.<sup>20</sup>

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<sup>13</sup> CAL. GOV’T. CODE § 11346.3(f) (West 2022).

<sup>14</sup> CAL. GOV’T. CODE § 11346.3(f) (West 2022).

<sup>15</sup> CAL. GOV’T. CODE § 11346.3(f) (West 2022).

<sup>16</sup> CAL. GOV’T. CODE § 11346.5(a)(10) (West 2022) (stating that an agency’s notice of proposed rulemaking must include a summary of the comments provided to the agency by the DOF pursuant to Cal. Civ. Code § 11346.3(f) (West 2022)).

<sup>17</sup> CAL. GOV’T. CODE § 11346.3(e) (West 2022).

<sup>18</sup> CAL. GOV’T. CODE § 11346.3(e) (West 2022).

<sup>19</sup> CAL. GOV’T. CODE § 11346.36(b)(2) (West 2022).

<sup>20</sup> CAL. GOV’T. CODE § 11350(a), (b)(1) (West 2022) (stating that a regulation “may be declared to be invalid

## 2. The CPPA Did Not Comply with the Process for Submitting a Major Regulation.

On January 28, 2022, the CPPA transmitted form DF-130 to the DOF indicating that the CPPA anticipated creating a major regulation.<sup>21</sup> The DOF subsequently published a notice that the CPPA intended to issue a major regulation.<sup>22</sup> These actions appear to have satisfied requirements (1) and (2) of the major regulation process described above. The CPPA did not complete steps (3) through (8) of the major rulemaking process. Instead, and without providing notice to the public, on June 28, 2022, the CPPA submitted the Proposed Regulations to the OAL for publication in the California Register. As part of its submission, the CPPA provided the OAL with an EIS which concluded that the Proposed Regulation would have a “small cost per business (\$127.60).”<sup>23</sup> The EIS included a report prepared by Berkeley Economic Advising and Research (the “BEAR Report”) titled “California Consumer Privacy Agency Notes on Economic Impact Estimates for Form 399.” Notably, because the CPPA incorrectly determined that the Proposed Regulations would have a small cost per business, the Proposed Regulations were treated like a non-major regulation. The CPPA did not provide an SRIA to the DOF 60 – 90 days before submitting the Proposed Regulations (or, indeed, at any time).

The estimate that the Proposed Regulations would have a de minimis impact on business, and the ultimate conclusion that the Proposed Regulations should be treated as a non-major regulation, was surprising. For context, when the Office of the California Attorney General had proposed the 28 pages of CCPA Regulations three years prior it identified those regulations as imposing an initial cost of \$75,000 per business, with an annual ongoing cost of \$2,500 per business every year for 10 years – in other words a total cost of \$100,000 per business. The overall statewide impact was estimated at \$467 million to \$16 billion.<sup>24</sup>

As detailed below, the actual impact on businesses is far greater than disclosed by the CPPA. The EIS failed to identify all of the obligations imposed on businesses by the Proposed Regulations and thus did not calculate the economic impact associated with such obligations. The costs arising from the unanalyzed obligations alone (not to mention those costs that were not accounted for due to other methodological errors)<sup>25</sup> easily exceed \$50 million. For this reason, the CPPA was required to follow the APA’s major-regulation procedures.

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for a substantial failure to comply with [the APA.]”); *Sims v. Dep’t of Corrs. & Rehab.*, 216 Cal. App. 4th 1059, 1067, 1081 – 82 (2013) (finding that regulations promulgated by an agency that failed to complete a fiscal impact assessment were invalid and unenforceable).

<sup>21</sup> Response to Public Records Act Request from CPPA (Aug. 10, 2022) (Attached as Exhibit B).

<sup>22</sup> See *2022 Major Regulations Rulemaking Calendar*, DEP’T OF FIN., <https://dof.ca.gov/wcontent/uploads/Forecasting/Economics/Documents/2022-MajorRegsCalendar.pdf> (last visited Aug. 15, 2022).

<sup>23</sup> CAL. PRIV. PROT. AGENCY, STD. 399 ECONOMIC AND FISCAL IMPACT STATEMENT 1 (in conjunction with the California Consumer Privacy Act (CCPA) Regulations, signed June 28, 2022), [https://cppa.ca.gov/regulations/pdf/std\\_399.pdf](https://cppa.ca.gov/regulations/pdf/std_399.pdf). The EIS extrapolated that the \$127.60 per business cost might have an aggregate impact of \$8,424,690.

<sup>24</sup> *Id.* at 2.

<sup>25</sup> See *supra* note 2.

### 3. The Economic Analysis Submitted by the CPPA with the Proposed Regulations Is Foundationally Deficient

The BEAR Report, intended to clarify and support the economic impact asserted in the EIS, begins by stating the assumptions and criteria BEAR used in its analysis. BEAR explains that it “assessed whether each section [of the Proposed Regulations] created obligations that were not found in existing law,” existing law being loosely defined as the existing CCPA regulations and the CPRA amendments. Upon reading the existing CCPA regulations, CPRA amendments, and the Proposed Regulations, BEAR concluded in its initial analysis that the “new proposed draft regulations initially appear **significant** in scope” and that, “[**in many sections**, [BEAR] initially believed that there could be a **regulatory impact**.”<sup>26</sup> Attached as an Appendix 2 to the BEAR Report is a list of “selected sections” of the Proposed Regulations where BEAR “initially assessed there may be regulatory deltas.”<sup>27</sup> Presumably these initial conclusions were based on an independent and unbiased reading of the existing law and Proposed Regulation, and would have supported the classifying the Proposed Regulations as a “major regulation” necessitating a full SRIA.

The BEAR Report then alludes to a “discussion” between BEAR and unidentified CPPA “supporting staff.” During this discussion, the unidentified staff apparently argued that “most of the potential regulatory ‘deltas’” that BEAR had identified “were reiterated [in] the existing CPRA amendments or existing regulations from the CCPA.” They urged BEAR not to identify these sections as imposing new obligations upon businesses and instructed BEAR not to analyze these sections for their economic impact.<sup>28</sup> Tellingly, Appendix 2 of the Report fails to fully discuss where in the existing law each identified delta is, in fact, addressed. Instead, Appendix 2 provides a generalized statement that is not only inadequate, but in many cases false.<sup>29</sup>

Ultimately, based on the assertions of unidentified staff, BEAR assumed that the Proposed Regulations would impose only “three” new requirements on businesses, rather than the 10 requirements first listed by BEAR, or the 45 requirements identified by WLF in the chart below.

To better understand the directions and assumptions provided to BEAR, and to view a copy of BEAR’s initial assessment, WLF submitted separate Public Records Act requests to the California AG and the CPPA requesting a copy of any transcripts or notes from the discussions between the unidentified CPPA staff and BEAR. The Office of the California Attorney General responded that it is unaware of any notes or transcripts from the meeting, but that if any records exist they “may be subject to exemptions from disclosure” (no explanation was provided as to what exemptions might apply).<sup>30</sup> The CPPA refused to say whether any notes and transcripts existed, but asserted that if such documents exist they are shielded from public disclosure under “the confidentiality

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<sup>26</sup> BEAR Report at 1.

<sup>27</sup> As BEAR refers to these as “selected sections” presumably they were not intended to be an exhaustive list of all the areas in which BEAR believed there to be a regulatory delta. BEAR Report at 19.

<sup>28</sup> BEAR Report at 1-2.

<sup>29</sup> See e.g., Row 31 in the table below (discussing how §7051(a)(2) has in fact not been addressed by the CPRA despite the statement provided for in the BEAR Report at 20).

<sup>30</sup> Response to Public Records Act Request from Amos E. Hartston, Deputy Att’y Gen. (July 26, 2022) (Attached as Exhibit A).

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privileges set forth in California law, including the attorney-client privilege contained in Evidence Code section 954, which are expressly incorporated into the Public Records Act and the public interest is served in supporting Agency counsel's ability to provide confidential advice and counsel to the Agency."<sup>31</sup> While beyond the scope of this comment, it is significant to note that the CPPA offered no support for its assertion that Cal. Evid. Code §954 is appropriate to shield the BEAR notes and transcripts from disclosure.<sup>32</sup>

The CPPA did, however, provide a copy of the contract between BEAR and the CPPA, which states that if BEAR's "initial analysis concludes that the regulatory assumption provided by the Agency will have an impact of more than \$50 million, contractor shall prepare the necessary Standardized Regulatory Impact Assessments (SRIA) required by Government Code Sections 11346.2(b)(2)(B) and 11346.3(c)."<sup>33</sup> Unfortunately, the CPPA did not provide a copy of the "initial assessment" that was update per the "discussion" between BEAR and unidentified CPPA "supporting staff," so it is unclear whether this contractual provision was triggered by BEAR's initial findings.

Contrary to the assertion of the unidentified staff, the Proposed Regulations impose far greater than three new obligations on businesses. The following table identifies **more than 45** significant new obligations that the Proposed Regulations would impose on businesses. None of these new obligations were accounted for within the BEAR Report's analysis or the EIS's calculations. WLF believes that an objective analysis of the new obligations would undoubtedly classify the Proposed Regulations as a "major regulation" for which a SRIA was required.

*(See following page)*

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<sup>31</sup> Response to Public Records Act Request from CPPA (no sender identified) (Aug. 10, 2022) (Attached as Exhibit B).

<sup>32</sup> Cal. Evid. Code §954 covers "confidential communications" between a "client" and that client's "lawyer" (all terms further defined in Chapter 3 of the Evidence Code). The assertion of attorney-client privilege requires a party to identify an attorney, a communication where a "legal opinion [is] formed" by a lawyer, and ensure that the communication remains confidential and is not waived. Cal. Evid. Code 952. In this case, the CPPA did not identify a lawyer, did not identify specific communications, and provided no basis for believing that any communication that might have occurred between an attorney for the CPPA and BEAR (an independent third party) had any expectation of confidentiality. Indeed, even if an attorney-client privilege could have existed it would have been waived when BEAR (and the CPPA) expressly relied upon the purported statements of the attorney as the foundation of the BEAR report. Attempting to shield an agency's analysis of the impact of a proposed regulation from the public by the assertion of attorney-client privilege when the agency is statutorily mandated to disclose the regulatory impact is extremely unusual (and indeed may be unprecedented) and raises severe concerns regarding the transparency of the CPPA and their commitment to the regulatory process.

<sup>33</sup> California Privacy Protection Agency Economic Analysis Consulting Services Contract at 2 (received Aug. 10, 2022) (Attached as Exhibit B).

### New Compliance Obligations Imposed by the Proposed Regulations and Not Accounted for within the EIS or BEAR Report

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
1.	§ 7001(c)	<u>Expansion of authorized agents.</u> The Proposed Regulation would change the definition of “Authorized Agent” to remove the requirement that such entities be registered with the California Secretary of State.	The current CCPA Regulations require that all authorized agents be “registered with the Secretary of State to conduct business in California.” <sup>34</sup>	<ul style="list-style-type: none"> <li>Businesses would need to begin responding to “authorized agent” requests submitted by companies that are not registered with the Secretary of State.</li> <li>The increased volume of authorized agent requests may require additional resources to track, process, and respond to data subject requests.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
2.	§ 7003(c)	<u>Size and color of links.</u> The Proposed Regulation would mandate that all links required under the CCPA be in the same “font size and color” as “other links used by the business on its homepage.”	The CCPA, CPRA, and current CCPA Regulations do <u>not</u> mandate that businesses verify that the size and color of all links mandated by the CCPA are of the same approximate size or color as other links on the homepage. The CPRA only requires that “a link to a web page that enables the consumer to consent to the business ignoring the opt-out preference signal” have “a similar look, feel, and size relative to other links on the same web page.” <sup>35</sup>	<ul style="list-style-type: none"> <li>Businesses would need to visually inspect each website under their control to verify the size and color of CCPA/CPRA mandated links.</li> <li>For businesses that maintain multiple websites, each website would need to be inspected.</li> <li>Any website that is identified as utilizing a different font size and/or color would need to be modified.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
3.	§ 7003(d)	<u>Links within mobile applications.</u> The Proposed Regulation would mandate that in mobile applications a “conspicuous link <u>shall be</u> accessible within the application, such as through the application’s settings menu.” This would be in addition to the inclusion of conspicuous links within privacy notices.	The current CCPA Regulations do <u>not</u> mandate that a mobile application make links accessible within the application, but rather allows companies to decide whether to include links in such location. Specifically <ul style="list-style-type: none"> <li>the current CCPA Regulations state that a Notice at Collection “<u>may</u>” be provided “within the application, such as through the application’s settings menu;”<sup>36</sup> and</li> <li>the current CCPA Regulations state that a business “<u>may</u>” choose to provide a DNSMPI link “within the application,</li> </ul>	<ul style="list-style-type: none"> <li>Businesses would need to visually review each mobile application under their control to verify that all “conspicuous links” required by the CPRA (including privacy notice, DNSOSMPI, Limit Use, etc.) are accessible within an Application’s settings menu.</li> <li>Businesses would need to ensure the display of multiple links does not interfere with user experience or violate third party UX requirements (such as Apple’s Human Interface Guidelines<sup>39</sup>).</li> <li>For businesses that maintain multiple mobile applications (dozens or hundreds) each mobile application would need to be inspected.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>34</sup> CAL. CODE REGS. tit. 11, § 7001(c) (2022).

<sup>36</sup> CAL. CODE REGS. tit. 11, § 7012(a)(3)(B) (2022) (emphasis added).

<sup>39</sup> *Human Interface Guidelines*, APPLE INC., <https://developer.apple.com/design/human-interface-guidelines/guidelines/overview/> (last visited Aug. 4, 2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
			<p>such as through the application’s settings menu” in addition to the mandatory placement of the link on the Business’s homepage.<sup>37</sup></p> <ul style="list-style-type: none"> <li>The current CCPA Regulations state that a business “may include a link to the privacy policy in the application’s settings menu” in addition to the mandatory placement of the link on the download or landing page of the mobile application.<sup>38</sup></li> </ul>	<ul style="list-style-type: none"> <li>Any mobile application that does not contain such links would need to be modified. Note that for businesses that did not develop or do not maintain their own mobile applications, this may necessitate engaging third party mobile application development companies.</li> </ul>	
4.	§ 7004(a)(2)	<p><u>Review cookie banner verbiage.</u> The Proposed Regulation is ambiguous as to its scope. It is unclear whether the example refers to a website banner that a consumer might see <i>after</i> opting-out of a sale or sharing (a banner resoliciting consent) or website banners that a consumer might see asking for the consumer to provide a use or direction for the business to disclose personal information in the first instance (an action that would remove the data transfer from the sale of personal information per 1798.140(ad)(2)(A)). For whatever banner the example was intended to impact it would mandate that businesses review and/or update the verbiage to include both an “accept all” and “decline all” option, instead of “accept all” and “preferences.”</p>	<p>The current CCPA Regulations discuss parity of methods for submitting requests to (a) “opt-out,” or (b) opt-in “<i>after</i> having previously opted out” (resolicitation). Only in the context of the latter situation do the current CCPA Regulations require a parity of “steps” between an opt-out mechanism <i>as compared to</i> the mechanism for requesting to “opt-in to the sale of personal information <i>after</i> having previously opted out.”<sup>40</sup></p> <p>The CPRA and the current CCPA Regulations do <u>not</u> regulate <i>opt-in</i> banners that do not involve resolicitation (that is, requests for a consumer to consent in the first instance to the use of AdTech cookies before such cookies are deployed).</p> <p>If the Proposed Regulation is intended to govern opt-in banners (as opposed to resolicitation banners) by interpreting certain opt-in banners as constituting “dark patterns” the regulation would be</p>	<p>If the Proposed Regulation is intended to govern opt-in banners (as opposed to resolicitation banners):</p> <ul style="list-style-type: none"> <li>Businesses would need to review their websites for any opt-in cookie consent banners.</li> <li>For businesses that identify opt-in consent banners, the business would have to review the terminology and consent structure to identify whether an “accept all” and “decline all” button exists.</li> <li>If a “decline all” button does not exist, the business would need to modify the cookie banner. Note that for businesses that did not develop and/or do not maintain their own cookie banners, the new requirement may necessitate resources of third party support companies (e.g., cookie banner providers).</li> </ul>	<p><b>Not accounted for by BEAR / 0 hours and \$0 assigned</b></p>

<sup>37</sup> CAL. CODE REGS. tit. 11, § 7013(b)(1) (2022) (emphasis added).

<sup>38</sup> CAL. CODE REGS. tit. 11, § 7011(b) (2022).

<sup>40</sup> CAL. CODE REGS. tit. 11, § 7026(h)(1) (2022) (emphasis added).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
			substantively new and should be analyzed for its economic impact.		
5.	§ 7004(a)(2)(D)	<u>Review opt-in cookie banner font size and color.</u> The Proposed Regulation would mandate that all businesses that use opt-in cookie banners review the font size and color of the “yes” button to ensure that it is no larger or “more eye-catching” than the “no button.”	The CPRA and the current CCPA Regulations do <u>not</u> regulate <i>opt-in</i> consent banners (requests for a consumer to consent to the use of AdTech cookies before such cookies are deployed). The CPRA and the CCPA only discuss (1) opt-out mechanisms (giving consumers the right to stop the selling or sharing of personal data that would otherwise occur if the consumer takes no action), and (2) opt-in mechanisms <i>after</i> the consumer has previously opted out. <sup>41</sup>	If the Proposed Regulation is intended to govern opt-in banners (as opposed to resolicitation banners): <ul style="list-style-type: none"> <li>• Businesses would need to review their websites for any opt-in cookie consent banners.</li> <li>• For businesses that identify opt-in consent banners, the business would have to review the font size, color, and prominence of the options displayed.</li> <li>• If a “yes” button is larger or of a more “eye-catching color” the business would need to modify the cookie banner. Note that for businesses that did not develop or do not maintain their own cookie banners, the new requirement may necessitate resources of third party support companies (e.g., cookie banner providers).</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
6.	§ 7004(a)(4)(A)	<u>Review verbiage of financial incentive choices.</u> The Proposed Regulation would mandate that businesses that offer financial incentive programs review the terminology of their consent mechanism to avoid statements such as “No, I don’t want to save money.”	The CPRA and the current CCPA Regulations do <u>not</u> contain any requirements regarding the terminology that should be used when soliciting consent for a financial incentive program.	<ul style="list-style-type: none"> <li>• Businesses would need to review their practices to identify all instances in which consumers are asked to join a financial incentive program.</li> <li>• In each instance in which a business solicits participation in a financial incentive program, the business would need to review the consent structure and the verbiage surrounding options open to the consumer for conformance to the Proposed Regulation.</li> <li>• If the current terminology does not conform to the Proposed Regulation, the business would need to modify the terminology. For website-based financial incentive program requests, such a change would necessitate website development time. For paper-based financial incentive program requests, such a change would necessitate creating and printing new forms and/or signage.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>41</sup> CAL. CODE REGS. tit. 11, § 7026(h)(1) (2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
7.	§ 7004(a)(4)(C)	Create separate consent pathways. The Proposed Regulation would prohibit businesses from “bundling” a request for consent to use personal information for one purpose with a request for consent to use personal information for an unrelated purpose.	The CPRA prohibits a business from collecting information for one purpose, and then using the information for an “incompatible purpose” that was not disclosed to the consumer. <sup>42</sup> The CPRA and the current CCPA Regulations do <u>not</u> prohibit a business from using personal information for an incompatible purpose so long as the consumer is provided “with notice” of the additional purpose, nor does the CPRA (or the current CCPA Regulations) prohibit a business from asking a consumer to consent to two different purposes simultaneously.	<ul style="list-style-type: none"> <li>• Businesses would need to review their practices to identify all instances in which consumers are asked to consent to the use of their personal information.</li> <li>• In each instance in which a business solicits consent, the business would need to review the consent structure to identify whether the business is requesting consent for multiple uses of the personal information that might be considered by the CPPA to be “unexpected or incompatible.”</li> <li>• In each instance where a bundled consent is identified, the business would need to modify its consent structure to present the consumer with separate consent options for each of the business’s use of personal information.</li> <li>• Where bundled consent has already been obtained by the consumer, the business may need to consider the feasibility of resoliciting consent using an unbundled consent structure (i.e., contacting the consumer and asking them to verify their previous choices).</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
8.	§ 7012(g)(1), (2), (4)(A).	<u>AdTech and/or analytics providers must provide notices at collection.</u> The Proposed Regulations would require that a notice of collection be provided by “both” a business that provides a website as well as a “third party controlling the collection of personal information.”	The current CCPA Regulations only require that a business provide a notice at collection if the business collects personal information “ <i>from</i> the consumer.” <sup>43</sup> In situations in which a business collects personal information <i>about</i> a consumer, but collects such personal information from or through a third party (i.e., from a third party that initially collected the personal information), the regulations implementing the CCPA make clear that the business “does not need to provide a notice at collection” so long as the business does not intend to sell the personal information. <sup>44</sup> If the business intends to sell the personal information, a notice at collection is still	<ul style="list-style-type: none"> <li>• Publishers may need to audit each website that they maintain to determine which third parties are collecting personal information from those websites.</li> <li>• Publishers may need to review their contracts with each identified third party to identify each contractual requirement to display the third party partner’s notice at collection within the first party’s notice at collection.</li> <li>• Publishers may need to modify their notice at collection to include the notice at collection of any third party partner that has contractually obligated the publisher to display the third party’s notice at collection.</li> <li>• Publishers may need to design an internal process by which the addition, or subtraction, of third parties that are allowed to collect</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>42</sup> CAL. CIV. CODE §1798.100(a)(1) (West 2022).

<sup>43</sup> CAL. CODE REGS. tit. 11, § 7001(l) (2022); CAL. CODE REGS. tit. 11, § 7010(b) (2022) (emphasis added).

<sup>44</sup> CAL. CODE REGS. tit. 11, § 7012(d) (2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
			not required if the business complies with California’s rules regulating data brokers. <sup>45</sup>	<p>personal information from websites triggers a process by which the third party’s notice at collection is removed from or added to the first party’s notice at collection as needed.</p> <ul style="list-style-type: none"> <li>• Publishers may need to design an external process through which third party partners could notify the first party if the third party’s notice at collection has changed (thus requiring the first party to modify the sections in its own privacy notice/notice at collection that refer to the third party’s practices).</li> </ul>	
9.	§ 7013(c)	<u>DNSOSMPI link must be in header or footer.</u> The Proposed Regulation would require that businesses that are required to publish a “Do Not Sell or Share My Personal Information” link locate that link in either the header or the footer of the homepage.	<p>The CPRA only requires that businesses that are required to include the DNSOSMPI link make the link “clear and conspicuous.”</p> <p>The current CCPA regulations only require that businesses that are required to include the DNSOSMPI link make the link available on the website homepage.</p> <p>Neither the CPRA nor the current CCPA Regulations mandate that the link be located within the header or the footer of the website.</p>	<ul style="list-style-type: none"> <li>• Businesses would need to review each website under their control that includes a DNSOSMPI link and verify that the link is located within the website’s header or within the website’s footer.</li> <li>• Any website that is identified where the DNSOSMPI link is located in a different location (e.g., the body of the homepage, a sidebar, a pop-up window, or a pop-up notice) would need to be modified.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
10.	§ 7013(e)(3)(C)	<u>DNSOSMPI info must be included in telephone scripts.</u> The Proposed Regulation would require that businesses that sell or share personal information collected over the telephone “shall” provide notice orally of how the consumer can opt-out of the sale.	The current CCPA Regulations state only that a business that collects personal information over the phone “may” provide notice orally of how the consumer can opt-out of the sale. <sup>46</sup>	<ul style="list-style-type: none"> <li>• Businesses would need to determine whether any information that is collected over the telephone is sold or shared.</li> <li>• Businesses that engage in outbound direct marketing would need to review outbound call scripts and/or interactive voice response (“IVR”) scripts.</li> <li>• To the extent that the current outbound call script and/or IVR script does not include information on how a consumer can opt-out of the sale of personal information, the outbound call script would need to be modified and/or the IVR script would need to be reprogrammed.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>45</sup> CAL. CODE REGS. tit. 11, § 7012(e) (2022). *See also* CAL. CIV. CODE § 1798.99.80 et seq. (West 2022) (regulating data brokers).

<sup>46</sup> CAL. CODE REGS. tit. 11, § 7013(b)(3)(B) (2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
				<ul style="list-style-type: none"> <li>• Businesses that accept inbound telephone calls would need to review inbound call scripts and/or IVR scripts.</li> <li>• To the extent that the current inbound call script and/or IVR script does not include information on how a consumer can opt-out of the sale of personal information, the inbound call script would need to be modified and/or the IVR script would need to be reprogrammed.</li> </ul>	
11.	§ 7014(e)(3)(A)	<u>Limit the use of sensitive information notice must be provided offline.</u> The Proposed Regulation would require that businesses that are required to provide an option for consumers to limit the use of sensitive personal information, and that collect such information offline (e.g., brick-and-mortar stores), provide a notice “through an offline method” of the consumer’s right to limit the use of their sensitive personal information.	<p>The CPRA does <u>not</u> require that information regarding how consumers can limit the use of sensitive personal information be provided in notices at collection.<sup>47</sup></p> <p>The CPRA only requires that a business that is required to provide an option for consumers to limit the use of sensitive personal information include a “clear and conspicuous link on the business’s internet homepages, titled ‘Limit the Use of My Sensitive Personal Information’ . . . .”<sup>48</sup></p>	<ul style="list-style-type: none"> <li>• Businesses will need to review their in-store collection practices to verify whether they do, or do not, collect sensitive personal information within brick-and-mortar stores.</li> <li>• If the business is required to provide the ability to limit the use of sensitive personal information, the business will need to design, print, distribute, and post offline signage in such stores and/or update any paper forms that collect sensitive personal information.</li> <li>• Businesses may have to monitor brick-and-mortar locations to verify that any in-store signage has not been removed, replaced, or obscured.</li> </ul>	Not accounted for by BEAR / 0 hours and \$0 assigned
12.	§ 7014(e)(3)(B)	<u>Limit the use of sensitive information notice must be provided over the phone.</u> The Proposed Regulation would require that businesses that (1) are required to provide an option for consumers to limit the use of sensitive personal information and (2) collect such information over the phone, “provide notice orally during the call when the sensitive personal information is collected.”	<p>The CPRA does <u>not</u> require that information regarding how consumers can limit the use of sensitive personal information be provided in notices at collection.<sup>49</sup></p> <p>The CPRA only requires that a business that is required to provide an option for consumers to limit the use of sensitive personal information include a “clear and conspicuous link on the business’s internet homepages, titled ‘Limit the Use of My Sensitive Personal Information’ . . . .”<sup>50</sup></p>	<ul style="list-style-type: none"> <li>• Businesses will need to review their telephone collection practices to verify whether they do, or do not, collect sensitive personal information over the telephone.</li> <li>• If the business is required to provide the ability to limit the use of sensitive personal information, the business will need to create a call script and/or reprogram the IVR script to notify consumers that they can limit the use of their sensitive personal information.</li> <li>• Businesses may need to train customer service agents to provide the required notice.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>47</sup> See CAL. CIV. CODE § 1798.100(a) (West 2022).

<sup>48</sup> CAL. CIV. CODE § 1798.121(a), 135(a)(2) (West 2022).

<sup>49</sup> See CAL. CIV. CODE § 1798.100(a) (West 2022).

<sup>50</sup> CAL. CIV. CODE § 1798.121(a), 135(a)(2) (West 2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
				<ul style="list-style-type: none"> <li>Businesses may have an ongoing obligation to monitor telephone interactions to ensure that customer service agents are providing the required notice.</li> </ul>	
13.	§ 7014(e)(3)(C)	<p><u>Limit the use of sensitive information notice must be provided as part of a connected device.</u> The Proposed Regulation would require that businesses that (1) are required to provide an option for consumers to limit the use of sensitive personal information and (2) collect such information through a connected device “provide notice in a manner that ensures that the consumer will encounter the notice while using the device.”</p>	<p>The CPRA does <u>not</u> require that information regarding how consumers can limit the use of sensitive personal information be provided in notices at collection.<sup>51</sup></p> <p>The CPRA only requires that a business that is required to provide an option for consumers to limit the use of sensitive personal information include a “clear and conspicuous link on the business’s internet homepages, titled ‘Limit the Use of My Sensitive Personal Information’ . . . .”<sup>52</sup></p>	<ul style="list-style-type: none"> <li>Businesses will need to review their connected devices to verify whether they do, or do not, collect sensitive personal information.</li> <li>If the business is required to provide the ability to limit the use of sensitive personal information, the business will need to design a mechanism through which consumers can be notified of their ability to limit the use of such information.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
14.	§ 7014(e)(3)(D)	<p><u>Limit the use of sensitive information notice must be provided as part of a virtual reality experience.</u> The Proposed Regulation would require that businesses that (1) are required to provide an option for consumers to limit the use of sensitive personal information and (2) collect such information through augmented or virtual reality “provide notice in a manner that ensures that the consumer will encounter the notice while in the augmented or virtual reality environment.”</p>	<p>The CPRA does <u>not</u> require that information regarding how consumers can limit the use of sensitive personal information be provided in notices at collection.<sup>53</sup></p> <p>The CPRA only requires that a business that is required to provide an option for consumers to limit the use of sensitive personal information include a “clear and conspicuous link on the business’s internet homepages, titled ‘Limit the Use of My Sensitive Personal Information’ . . . .”<sup>54</sup></p>	<ul style="list-style-type: none"> <li>Businesses will need to review any augmented or virtual reality environments that they offer (e.g., gaming environments) to verify whether they do, or do not, collect sensitive personal information.</li> <li>If the business is required to provide the ability to limit the use of sensitive personal information, the business will need to design a mechanism through which consumers can be notified of their ability to limit the use of such information.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
15.	§ 7021(a)	<p><u>Confirm receipt of requests to correct within 10 business days.</u> The Proposed Regulation would require that a business confirm receipt of a request to correct within 10 business days.</p>	<p>The CPRA does <u>not</u> require that a business confirm receipt of a request to correct.</p> <p>The current CCPA Regulations only require that a business confirm receipt of a request to know or a request to delete.</p>	<ul style="list-style-type: none"> <li>Businesses will need to review and revise their data subject request policies, procedures, or protocols to include a process by which requests to correct will be acknowledged within 10 business days.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>51</sup> See CAL. CIV. CODE § 1798.100(a) (West 2022).

<sup>52</sup> CAL. CIV. CODE § 1798.121(a), 135(a)(2) (West 2022).

<sup>53</sup> See CAL. CIV. CODE § 1798.100(a) (West 2022).

<sup>54</sup> CAL. CIV. CODE § 1798.121(a), 135(a)(2) (West 2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the "Delta")	Burden accounted for by the CPPA / BEAR within the EIS
			They do <u>not</u> require that a business confirm receipt of a request to correct.		
16.	§ 7022(b)(3)	<u>Flowing down requests to delete to third parties.</u> The Proposed Regulation would require that a business notify "all third parties to whom the business has sold or shared the personal information" after a request to delete has been received.	The CPRA and current CCPA Regulations only require that businesses flow down deletion requests to service providers and contractors; they do <u>not</u> require that a business flow down deletion requests to third parties to whom the information was sold prior to receiving a deletion request.	<ul style="list-style-type: none"> <li>• Businesses may need to keep records of all third parties to whom a particular consumer's personal information had been sold.</li> <li>• Businesses may have to establish a communications channel to those third parties with whom the business currently has a relationship through which deletion requests could be transmitted.</li> <li>• Businesses may have to maintain a communications channel to those third parties with whom the business formerly had a relationship (but does not have a current relationship) through which deletion requests could be transmitted.</li> <li>• Businesses may have to flow-down deletion requests to all current and former third party data recipients.</li> <li>• In the event that a third party with whom the business currently has a relationship, or with whom the business formerly had a relationship, is unable to receive flow down requests in an efficient manner, the business may need to document the effort involved with attempting to contact the third party and convey that information to the consumer.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
17.	§ 7023(c)	<u>Ensure that personal information subject to a correction request remains corrected.</u> The Proposed Regulation would require that a business that is required to comply with a request to collect personal information "implement measures to ensure that the information remains corrected."	<p>The CPRA only requires that a business correct inaccurate personal information that it holds within its system at the time that a correction request is made.<sup>55</sup></p> <p>The CPRA does <u>not</u> obligate a business to continue to ensure that corrected personal information remains accurate indefinitely.</p>	<ul style="list-style-type: none"> <li>• Businesses may need to implement a mechanism that puts a permanent system-wide tag on corrected data.</li> <li>• Businesses may need to design a mechanism through which it can flag any new data that enters the system, check it against the corrected information, and ensure that conflicting information does not overwrite the corrected information.</li> <li>• Businesses may need to implement a system through which it can contact the individual in the event conflicting information is entered into the system to ascertain whether the new information is now the correct information (e.g., a new address is provided by the individual after the individual has made a</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>55</sup> CAL. CIV. CODE § 1798.106(a)-(c) (West 2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
				correction request with respect to the current address in the system).	
18.	§ 7023(f)(4)	<u>Create process for consumers to submit 250 word statements regarding health-data inaccuracy.</u> The Proposed Regulation would require that a business that collects health information create a process through which a consumer could submit a 250-word statement regarding any alleged inaccurate health-related fact. The business would be required to maintain the consumer’s submission (indefinitely) and make it available to any person (presumably a service provider or a third party) with whom the business shares such information.	The CPRA does not impose any <i>direct</i> obligation upon a business to permit consumers to submit 250 word challenges to allegedly inaccurate health information.  While the CPRA directs that the CPPA adopt regulations that would permit such 250 word challenges, <sup>56</sup> pursuant to the APA such regulations should be evaluated for their economic impact. Furthermore, the CPRA in its description of the regulations that should be adopted does not contemplate that a business would be required to transmit the consumer’s statement to third parties such as other businesses to which the information had been historically sold.	<ul style="list-style-type: none"> <li>• Businesses may need to develop a system through which a consumer could submit a 250-word statement.</li> <li>• Businesses may need to develop a system to record and store such statements. As such statements are likely to contain sensitive category data (i.e., health information), business may need to investigate the adequacy of any security measures utilized for such systems.</li> <li>• Businesses may need to develop a mechanism to communicate consumer submitted statements to third parties to whom the business intends to share or sell the consumer’s health data in the future.</li> <li>• Business may need to maintain a comprehensive list of all third parties to whom the business has sold or shared the consumer’s health data.</li> <li>• Businesses may need to develop a process to retroactively determine whether the data fields that may have been historically shared or sold with third parties include the specific data field that the consumer has alleged is inaccurate.</li> <li>• Businesses may need to develop a mechanism to communicate consumer submitted statements to third parties with whom the business shared or sold such health data in the past.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
19.	§ 7023(i)	<u>Provide consumers with the name of the source of inaccurate information.</u> The Proposed Regulation would require that a business provide consumers with the name of the source of allegedly inaccurate information.	The CPRA does <u>not</u> require that a business provide the source of inaccurate information following the receipt of a request to correct.	<ul style="list-style-type: none"> <li>• Businesses may need to track and record the source of each individual piece of information on a going forward basis.</li> <li>• Businesses may need to review information currently in their possession and determine (e.g., investigate) the source of such information.</li> <li>• Businesses may need to review their contracts with third party data providers (e.g., service providers that collect information on a business’s behalf, data brokers, data sellers,</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>56</sup> CAL. CIV. CODE § 1798.185(a)(8)(D) (West 2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
				<p>etc.) to determine whether such contracts (a) prohibit identification of the third party, or (b) mandate that the business notify the third party prior to identifying the third party to a data subject.</p> <ul style="list-style-type: none"> <li>If a contract with a data broker requires that the business notify the data broker prior to identifying the data broker by name to a data subject, the business may need to design a process and system for notifying the data broker within the time period mandated by the contract.</li> </ul>	
20.	§ 7023(j)	<p><u>Disclose information to allow consumers to confirm correction.</u> The Proposed Regulation would require a business to disclose all specific information maintained on a consumer to allow the consumer to confirm that the business corrected inaccurate information contained in a request to correct. This would not be considered a response to a request to know, nor would it count as one of the two requests to know that a consumer is allowed to submit in a 12-month time period.</p>	<p>The CPRA does <u>not</u> require a business to disclose all specific information on a consumer following a request to correct unless the business has received a separate request to know.</p>	<ul style="list-style-type: none"> <li>Businesses may need to modify their existing data subject request procedures to allow data subjects that had submitted a request to correct to ask for access to their personal information without converting such a request into a “request to know.”</li> <li>Businesses may need to ensure the response to these requests was recorded separately from responses to requests to know, and that the business does not count the request as one of the two requests to know permitted within a 12 month period.</li> </ul>	<p><b>Not accounted for by BEAR / 0 hours and \$0 assigned</b></p>
21.	§ 7025(b), (c), (e); 7026(a)(1)	<p><u>Businesses are required to process an opt-out preference signal (even if they have a DNSOSMPI link).</u> The Proposed Regulations would require that any business which sells or shares personal information detect and honor an opt-out preference signal. The Proposed Regulations would specifically “not give the business the choice between posting the above-referenced links or honoring opt-out preference signals.”</p>	<p>Although the current CCPA Regulations indicate that a business may need to treat “user-enabled global privacy controls” as a valid request to opt-out,<sup>57</sup> the CCPA Regulations were superseded by the passage of the CPRA which indicates that a business may choose to recognize the opt-out preference signal as an alternative to posting a “do not sell or share my personal information” link on their homepage.<sup>58</sup> Neither the current CCPA Regulations nor the CPRA state that a business <u>must</u> honor an opt-out preference signal.</p>	<ul style="list-style-type: none"> <li>Businesses that sell or share personal information may need to adapt their websites to identify an opt-out preference signal.</li> <li>If the opt-out preference signal is detected, businesses may need to stop the sale/sharing of personal information.</li> <li>If the consumer has authenticated (i.e., is a known consumer), businesses may need to record the opt-out preference within the consumer’s profile in order for the preference to apply the next time that the consumer authenticates (i.e., logs-in).</li> <li>Businesses may need to monitor for new standards and methods of transmitting an opt-out preference signal.</li> <li>If a new standard or method of transmitting an opt-out preference signal is developed, a</li> </ul>	<p><b>Not accounted for by BEAR / 0 hours and \$0 assigned</b></p>

<sup>57</sup> CAL. CODE REGS. tit. 11, § 7026(c) (2022).

<sup>58</sup> CAL. CIV. CODE § 1798.135(b)(1) (West 2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
				business may need to adjust its own technology to detect, and respond to, the signal.	
22.	§7025(c)(1), (7)(B), (7)(C)	<u>Create persistence mechanism for opt-out preference signal for known consumers.</u> The Proposed Regulations would require businesses create a persistence mechanism so that if (1) an opt-out preference signal is detected on Day 1, (2) the consumer authenticates into the website (e.g., she logs in), (3) the consumer visits the website on Day 2 while not broadcasting an opt-out preference signal, and (4) the consumer authenticates into the website (e.g., she logs in), then the business would continue to apply an opt-out preference.	While the CPRA directs that the CPPA adopt regulations that would govern how a business responds to opt-out preference signals, <sup>59</sup> pursuant to the APA such regulations should be evaluated for their economic impact. Furthermore, the CPRA in its description of the regulations that should be adopted does <u>not</u> contemplate that a business would be <u>required</u> (i.e., mandated) to treat opt-out preference signals as a request to opt-out of sale/sharing or that the signal be connected to the device and the consumer.	<ul style="list-style-type: none"> <li>Businesses may need to create a system to detect whether an opt-out preference signal has been broadcast.</li> <li>Businesses may need to create a system to record an opt-out preference in a manner that can be recognized and applied the next time a known consumer authenticates (i.e., logs-in).</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
23.	§ 7025(c)(5)	<u>Create persistence mechanism for known browsers (but not known consumers) such that initial opt-out preference signal continues to be treated as an “opt out” even if the consumer chooses to stop broadcasting the signal.</u> The Proposed Regulations would prohibit businesses from interpreting the absence of an opt-out preference signal after a consumer previously set an opt-out preference signal as consent to opt-in to the sale or sharing of personal information. As a result, if a consumer broadcast an opt-out preference signal (e.g., it broadcast by default from the consumer’s browser) on Day 1, and a consumer (either the same consumer or a different consumer) manually disabled the opt-out preference signal to reflect their choice that data could be shared on Day 2, the business would be required to continue to treat the browser as opted-out despite the consumer’s action to disable the signal.	The CPRA does <u>not</u> contain any requirements for the treatment of information when a previously communicated opt-out preference signal is absent. The CPRA allows, but does not require, businesses to “provide a link to a web page that enables the consumer to consent to the business ignoring the opt-out preference signal.” <sup>60</sup>	<ul style="list-style-type: none"> <li>Businesses may need to create a system to record an opt-out preference signal, so that the next time that the browser/device visits the businesses website data is not sold/shared regardless of whether the browser/device continues to be broadcasting the opt-out preference signal.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
24.	§7025(c)(6)	<u>Display whether opt-out preference signal has been processed.</u> The Proposed Regulation would require a business to display whether a	The CPRA does <u>not</u> contain any requirement for communicating whether an opt-out preference signal has been processed.	<ul style="list-style-type: none"> <li>Businesses may need to create a process to determine whether or not opt-out preference signals have been processed.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>59</sup> CAL. CIV. CODE § 1798.185(a)(20) (West 2022).

<sup>60</sup> CAL. CIV. CODE § 1798.135(b)(2) (West 2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
		consumer’s opt-out preference signal has been processed.		<ul style="list-style-type: none"> <li>Businesses may need to modify webpages to display notifications when opt-out preference signals have been received.</li> </ul>	
25.	§7025(c)(6), (c)(4)	<u>Display whether opt-out preference signal conflicts with a financial incentive enrollment.</u> The Proposed Regulation would require that if (1) a consumer broadcasts an opt-out preference signal, and (2) a consumer chooses to remain enrolled in a financial incentive program, then the business must “display in a conspicuous manner” the status of the “consumer’s choice.”	The CPRA does <u>not</u> contain any requirement for communicating the status of the consumer’s opt-out and/or financial incentive enrollment.	<ul style="list-style-type: none"> <li>In addition to the compliance burdens identified with respect to 7025(c)(6), a business may need to modify webpages to display the consumer’s status regarding enrollment in a financial incentive program.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
26.	§7026(a)(4)	<u>DNSOSMPI link cannot be within a cookie banner.</u> The Proposed Regulation appear to state that a “cookie banner or cookie controls” cannot be used as an acceptable method for submitting DNSOSMPI requests.	The CPRA does <u>not</u> prohibit a business from placing a DNSOSMPI option within a cookie banner or notice.	<ul style="list-style-type: none"> <li>Businesses may need to review their websites for cookie banners that include DNSOSMPI links or terminology.</li> <li>To the extent that the business utilizes a cookie banner to display the DNSOSMPI option, the business may need to create an alternative method for submitting a DNSOSMPI request.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
27.	§ 7026(f)(3)	<u>Flowing down requests to opt-out of sale or sharing to third parties.</u> The Proposed Regulation appears to require that a business that has received a request to opt-out of sale or sharing “notify all third parties to whom the business makes personal information available, including businesses authorized to collect personal information or controlling the collection of personal information on the business’s premises.” The business must then direct them to “1) comply with the consumer’s request and 2) to forward the request to any other person with whom the third party has disclosed or shared the personal information.” Third parties would, in turn, be prohibited from “retain[ing], us[ing], or disclos[ing] the personal information” unless they became a service provider.	<p>The CPRA gives businesses the opportunity to communicate consumers’ requests to “any person authorized by the business to collect personal information,” but does <u>not</u> require it.<sup>61</sup></p> <p>Further note that if a business chooses to communicate a consumer’s opt-out request, the third party is <u>not</u> required to delete the personal information or sign a service provider agreement; they are, however, prohibited from using, sharing, retaining, or disclosing the personal information if such activities are not in-line with the services that they are providing.<sup>62</sup></p>	<ul style="list-style-type: none"> <li>Businesses may need to keep records of all third parties to whom a consumer’s personal information has been made available.</li> <li>Businesses may need to keep records of all third parties it authorizes to collect personal information.</li> <li>Businesses may need to keep records of all third parties controlling the collection of personal information on the business’ premises.</li> <li>Businesses may have to establish a communications channel to such third parties with whom the business currently has a relationship through which opt-out requests could be transmitted.</li> <li>Businesses may have to maintain a communications channel to such third parties with whom the business formerly had a relationship (but does not have a current relationship) through which opt-out of sale/sharing requests could be transmitted.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>61</sup> CAL. CIV. CODE § 1798.135(f) (West 2022).

<sup>62</sup> CAL. CIV. CODE § 1798.135(f) (West 2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
				<ul style="list-style-type: none"> <li>• Businesses may have to flow-down opt-out requests to all current and former third party data recipients.</li> <li>• Businesses may have to create a notification and instruction processes to direct third party data recipients to comply with the consumer request and to forward the request to any other persons the third party had shared the information with.</li> </ul>	
28.	§ 7026(i)	<p><u>Exempt requests made through opt-out preference signals from written authorization requirement for agents.</u> The Proposed Regulation would allow an authorized agent to submit a request to opt-out of sale/sharing via the opt-out preference signal without obtaining and providing written permission from the consumer.</p>	<p>The CPRA does <u>not</u> allow agents to submit opt-out requests through opt-out signal preferences or without written authorization from the consumer.</p> <p>Furthermore the current CCPA Regulations stated that a “[u]ser-enabled global privacy control . . . shall be considered a request directly from the consumer, not through an authorized agent.”<sup>63</sup></p>	<ul style="list-style-type: none"> <li>• Businesses may need to create a process for authorized agents to indicate the consumer for whom they are communicating the opt-out preference signal.</li> <li>• Businesses may need to revise processes for authorized agents to accept opt-out preference signals without written permission.</li> <li>• Businesses may need to create a system to record opt-out preference signals from agents and connect such requests to consumer data.</li> <li>• Businesses may need to create processes to identify and prevent unauthorized requests made by unauthorized third parties.</li> </ul>	<p><b>Not accounted for by BEAR / 0 hours and \$0 assigned</b></p>
29.	§ 7027(g)(3)	<p><u>Flowing down requests to limit use of sensitive information to previously engaged third parties.</u> The Proposed Regulation would require that a business “notify all third parties to whom the business <u>has disclosed or made available</u> the consumer’s sensitive personal information” after receiving a request limit and direct them to “1) comply with the consumer’s request and 2) to forward the request to any other person with whom the third party has disclosed or shared the sensitive personal information.”</p>	<p>The CPRA does not require that businesses flow down requests to limit use and disclosure of sensitive personal information to third parties.</p>	<ul style="list-style-type: none"> <li>• Businesses may need to keep records of all third parties to whom a consumer’s sensitive personal information had been disclosed or made available.</li> <li>• Business may have to establish a communications channel to such third parties with whom the business currently has a relationship through which limiting requests could be transmitted.</li> <li>• Businesses may have to maintain a communications channel to such third parties with whom the business formerly had a relationship (but does not have a current relationship) through which limiting requests could be transmitted.</li> <li>• Businesses may have to flow-down limiting requests to all current and former third party data recipients.</li> <li>• Businesses may have to create a notification and instruction process to direct third party</li> </ul>	<p><b>Not accounted for by BEAR / 0 hours and \$0 assigned</b></p>

<sup>63</sup> CAL. CODE REGS. tit. 11, § 7026(f) (2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the "Delta")	Burden accounted for by the CPPA / BEAR within the EIS
				data recipients to comply with the consumer request and to forward the request to any other person the third party had shared the sensitive information with.	
30.	§ 7027(g)(4)	<u>Flowing down requests to limit use of sensitive information to currently engaged third parties.</u> The Proposed Regulation would require that a business "notify all third parties to whom the business has disclosed or made available the consumer's sensitive personal information," including businesses authorized to collect personal information or controlling the collection of personal information on the business's premises" after receiving a request to limit and direct them to "1) comply with the consumer's request and 2) to forward the request to any other person with whom the third party has disclosed or shared the sensitive personal information."	The CPRA does <u>not</u> require that businesses flow down requests to limit use and disclosure of sensitive personal information to third parties.	<ul style="list-style-type: none"> <li>• Businesses may need to keep records of all third parties to whom a consumer's sensitive personal information has been disclosed or made available.</li> <li>• Businesses may need to keep records of all third parties it authorizes to collect sensitive personal information.</li> <li>• Businesses may need to keep records of all third parties controlling the collection of sensitive personal information on their premises.</li> <li>• Business may have to establish a communications channel to such third parties with whom the business currently has a relationship through which limiting requests could be transmitted.</li> <li>• Businesses may have to maintain a communications channel to such third parties with whom the business formerly had a relationship (but does not have a current relationship) through which limiting requests could be transmitted.</li> <li>• Businesses may have to flow-down limiting requests to all current and former third party data recipients.</li> <li>• Businesses may have to create a notification and instruction processes through which it can direct third party data recipients to comply with the consumer request and to forward the request to any other persons the third party had shared the sensitive information with.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
31.	§7027(g)(5)	<u>Confirm whether request to limit has been processed.</u> The Proposed Regulation would require a business to provide a means by which the consumer can confirm that their request to limit has been processed, such as by displaying a toggle or radio button.	The CPRA does <u>not</u> contain any requirement for communicating whether a request to limit has been processed.	<ul style="list-style-type: none"> <li>• Businesses may need to create a process to determine whether or not requests to limit have been processed.</li> <li>• Businesses may either need to (1) modify webpages to display notifications when requests to limit have been processed, or (2) modify data subject request submissions and processes to allow consumers to request separate confirmation of the right to limit.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the "Delta")	Burden accounted for by the CPPA / BEAR within the EIS
32.	§ 7028(a)	<u>Two-step consent process for opting-in to the sharing or sale of personal information and/or the use and disclosure of sensitive personal information.</u> The Proposed Regulation would require requests to opt-in to the sharing or selling of personal information and/or the use and disclosure of sensitive personal information to use a two-step opt-in process.	<p>The CPRA does <u>not</u> require specific opt-in procedures for the use and disclosure of sensitive personal information.</p> <p>The CPRA does <u>not</u> require specific procedures to obtain consumer's intentional use or direction to share or disclose personal information to third parties.</p>	<ul style="list-style-type: none"> <li>• Businesses may need to review current opt-in procedures for use and disclosure of sensitive personal information.</li> <li>• Businesses may need to revise current procedures or implement new procedures for requests to opt-in to the use and disclosure of sensitive personal information.</li> <li>• Businesses may need to develop processes to separately confirm all opt-in requests.</li> <li>• Businesses may need to track consumers who only complete half of the opt-in process to ensure that those requests are not treated as a full opt-in.</li> <li>• Business may need to review how they are currently obtaining indications by consumers that the consumer intends for his/her personal information to be used or disclosed to third parties to determine whether the consumer's indication is enough to satisfy the Proposed Regulation's double-opt-in requirement.</li> <li>• If current systems to obtain intentional use or direction do not conform to the Proposed Regulation's standard, businesses may need to consider modifying their process for obtaining and documenting intentional use or disclosure to third parties.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
33.	§ 7050(c)(1)	<u>Prohibit classifying cross-contextual behavioral advertising companies as service providers or contractors.</u> The Proposed Regulation would prohibit businesses from contracting with service providers or contractors for cross-contextual behavioral advertising services.	The CPRA does <u>not</u> prohibit contracting service providers or contractors to provide cross-contextual behavioral advertising services.	<ul style="list-style-type: none"> <li>• Businesses would need to review their contracts with cross-context behavioral advertisers to identify whether those contracts classified the advertiser as either a service provider or a contractor.</li> <li>• If a contract did classify a cross-context behavioral advertiser as a service provider or contractor, the business may need to renegotiate the contract and/or reassess whether personal information can continue to be provided to such companies consistent with the business's overall strategy regarding the sharing of personal information with non-service providers.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
34.	§ 7051(a)(2)	<u>Requires contracts with service providers and contractors to identify business purposes and services for processing personal information.</u> The Proposed Regulation would require that	The CPRA does <u>not</u> require that the contract include a statement of the business purposes, nor does it prohibit the described	<ul style="list-style-type: none"> <li>• Businesses might have to review each contract they have with service providers and contractors to ensure that the contract specifically identifies the business purposes</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
		contracts between a business and a service provider or contractor specify the business purposes and services for which the service provider or contractor is processing personal information, and specify that the business is disclosing personal information for that limited and specific purpose. The description of the business purposes <u>cannot</u> be generic.	business purposes from being general or generally referring to the entire contract. <sup>64</sup>	<p>for which the service provider/contractor is processing personal information.</p> <ul style="list-style-type: none"> <li>Businesses would need to revise any contracts that only describe the business purposes by (1) providing a general business purpose or (2) referencing an overarching agreement (such as a master services agreements).</li> </ul>	
35.	§ 7051(a)(8)	<u>Requires agreements with service providers or contractors to include a 5-day notice provision of non-compliance.</u> The Proposed Regulation would require that agreements between a business and a service provider or contractor require the service provider or contractor to notify the business “no later than five business days after it makes a determination” that it can no longer meet its obligations under the CCPA or the Proposed Regulations.	The CPRA requires that a contract with a service provider or contractor obligate the service provider or contractor to “notify the business if it makes a determination” that it can no longer meet its obligations under the CPRA. <sup>65</sup> The CPRA does <u>not</u> require that the contract specify that the notification must occur within five business days.	<ul style="list-style-type: none"> <li>Each contract with a service provider or contractor may need to be reviewed to determine whether the notification provision specified a five-day time period for notice.</li> <li>If a contract did not specify a time period, or if it specified a time period that was longer than five business days, the business would need to contact the service provider or contractor, propose an amendment to the contract to comply with the Proposed Regulation, and enter into renegotiation discussions to bring the contract into compliance.</li> <li>If the service provider or contractor is unwilling, or unable, to agree to the five-day time period, the business may need to consider whether termination of the contract is warranted.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
36.	§ 7051(e)	<u>Due diligence of service providers or contractors.</u> The Proposed Regulation states that if a business does not conduct “due diligence of its service providers or contractors” that fact may factor into whether the business has a reason to believe that the service provider or contractor is using information in violation of the CCPA.	The CPRA provides a safe harbor from vicarious liability (i.e., a business “shall not be liable”) if the business communicates a consumer’s opt-out requests to a “person” and that person violates the CPRA so long as the business does “not have actual knowledge, or reason to believe, that the person intends to commit such a violation.” <sup>66</sup> The CPRA does <u>not</u> require a business to conduct due diligence, or impose a duty upon the business to investigate or inquire about the privacy	<ul style="list-style-type: none"> <li>Businesses may need to design a program to conduct due diligence on all service providers or contractors privacy practices (e.g., auditing, contract review, questionnaires, and/or other forms of monitoring). Such a program may need to be in addition to any existing due diligence activities that are focused on other compliance-related concerns (e.g., data security).</li> <li>Businesses may need to allocate sufficient staff and resources to implement the due diligence program on an ongoing basis.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>64</sup> CAL. CIV. CODE § 1798.100(d) (West 2022).

<sup>65</sup> CAL. CIV. CODE § 1798.100(d)(4) (West 2022).

<sup>66</sup> CAL. CIV. CODE § 1798.135(g) (West 2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
			practices of a service provider or contractor.		
37.	§ 7052(a)	<u>Third parties must comply with forwarded deletion or opt-out requests.</u> The Proposed Regulation would require a third party to comply with a consumer’s “request to delete or request to opt-out of sale/sharing forwarded to them from a business” that initially provided the consumer’s data to the third party.	<p>The CPRA contains a requirement that company B must honor opt-out of sale/sharing requests that have been communicated to it by business A, but only where company B is a “person authorized by the business [A] to collect personal information.”<sup>67</sup></p> <p>The CPRA does <u>not</u> impose any requirement for business A to communicate a <i>deletion</i> request to third parties, or for third parties to honor <i>deletion</i> requests that have been forwarded to them by businesses.</p>	<ul style="list-style-type: none"> <li>• Third parties may need to design a process through which they could receive opt-out communications from businesses that currently provide (or previously provided) them with personal information.</li> <li>• Third parties may need to communicate that process to those businesses that provide/provided them with personal information.</li> <li>• Businesses may need to design a process through which it could transmit opt-out communications to multiple third parties that may each have different communication processes (e.g., email, XLS, API, etc.).</li> <li>• Third parties may need to design a process through which they could receive deletion communications from businesses that currently provide (or previously provided) them with personal information.</li> <li>• Third parties may need to communicate that process to businesses that provide them with personal information.</li> <li>• Businesses may need to design a process through which it could transmit deletion communications to multiple third parties that may each have different communication processes (e.g., email, XLS, API, etc.).</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
38.	§ 7052(b)	<u>Third parties must comply with forwarded limit the use of sensitive information requests.</u> The Proposed Regulation would require a third party to comply with a “consumer’s request to limit forwarded to them from a business that provided, made available, or authorized the collection of the consumer’s sensitive personal information . . .”	<p>The CPRA contains a requirement that company B must honor opt-out of sale/sharing requests that have been communicated to it by business A, but only where company B is a “person authorized by the business [A] to collect personal information.”<sup>68</sup></p> <p>The CPRA does <u>not</u> impose any requirement for business A to communicate</p>	<ul style="list-style-type: none"> <li>• Third parties may need to design a process through which it could receive limit the use requests from businesses that provide the third party with personal information.</li> <li>• Third parties may need to communicate that process to businesses that provide (or provided) them with personal information.</li> <li>• Businesses may need to design a process through which it could transmit limit the use</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>67</sup> CAL. CIV. CODE § 1798.135(f) (West 2022).

<sup>68</sup> CAL. CIV. CODE § 1798.135(f) (West 2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
			a <i>limit the use</i> request to third parties, or for third parties to honor a limit the use request that has been forwarded to them by a business.	requests to multiple third parties that may each have different communication processes (e.g., email, XLS, API, etc.).	
39.	§ 7052(c)	<u>Third parties that collect personal information online must honor opt-out preference signals.</u> The Proposed Regulation would require that a third party that collects personal information from a consumer online (e.g., through a first party’s website) recognize and honor an opt-out preference signal received by the first party website.	Although the current CCPA Regulations indicate that a business may need to treat “user-enabled global privacy controls” as a valid request to opt-out, <sup>69</sup> the CCPA Regulations were superseded by the passage of the CPRA which indicates that a business may choose to recognize the opt-out preference signal as an alternative to posting a “do not sell or share my personal information” link on their homepage. <sup>70</sup> Neither the current CCPA Regulations nor the CPRA state that a third party that collects personal information online must honor an opt-out preference signal received by a first party’s website.	<ul style="list-style-type: none"> <li>• Third parties that collect personal information online may need to design systems and technology capable of detecting opt-out preference signals received by first party websites.</li> <li>• Third parties that collect personal information from multiple websites may need to design systems and technology capable of opting a consumer out of the sale/sharing of personal information from one website, but not another.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
40.	§ 7053(a)(6)	<u>Requires agreements with third parties to include a 5-day notice provision of non-compliance.</u> The Proposed Regulation would require that agreements between a business and a third party require the third party to notify the business “no later than five business days after it makes a determination” that it can no longer meet its obligations under the CCPA or the Proposed Regulations.	The CPRA requires that a contract with a third party obligate the third party to “notify the business if it makes a determination” that it can no longer meet its obligations under the CPRA. <sup>71</sup> The CPRA does <u>not</u> require that the contract specify that the notification must occur within five business days.	<ul style="list-style-type: none"> <li>• Each contract with a third parties may need to be reviewed to determine whether the notification provision specified five-day non-compliance notification.</li> <li>• If a contract did not specify a time period, or if it specified a time period that was longer than five business days, the business may need to contact the third party, propose an amendment to the contract to comply with the Proposed Regulation, and enter into renegotiation discussions to bring the contract into compliance.</li> <li>• If the third party is unwilling, or unable, to agree to the five-day time period, the business may need to consider whether termination of the contract is warranted.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>69</sup> CAL. CODE REGS. tit. 11, § 7026(c) (2022).

<sup>70</sup> CAL. CIV. CODE § 1798.135(b)(1) (West 2022).

<sup>71</sup> CAL. CIV. CODE § 1798.100(d)(4) (West 2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CCPA / BEAR within the EIS
41.	§ 7053(b)	<u>Requires agreements with third parties to obligate the third party to check for opt-out signals.</u> The Proposed Regulation would require businesses that sell or share personal information with third parties to contractually require the third party to “check for and comply with” a consumer’s opt-out preference signal unless the business confirms that the consumer consented in the first instance to the sale or sharing.	The CPRA does <u>not</u> require that a contract with a third party obligate the third party (i.e., a company that is not a service provider) to check for and comply with a consumer’s opt-out preference signal.	<ul style="list-style-type: none"> <li>• Businesses that sell or share personal information may need to review each contract that they have with third parties to determine whether the contract contains a requirement that third party check for and comply with a consumer’s opt-out preference signal.</li> <li>• If a contract did not contain such a provision, the business may need to contact the third party, propose an amendment to comply with the Proposed Regulation, and enter into renegotiation discussions to bring the contract into compliance.</li> <li>• If the third party is unwilling, or unable, to agree to check for and comply with consumer opt-out preference signals the business may need to consider whether termination of the contract was warranted.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
42.	§ 7053(e)	<u>Due diligence of third parties.</u> The Proposed Regulation state that if a business does not conduct “due diligence of third part[ies],” that fact may factor into whether the business has a reason to believe that the third party is using information in violation of the CCPA.	The CPRA provides a safe harbor from vicarious liability (i.e., a business “shall not be liable”) if the business communicates a consumer’s opt-out requests to a “person” and that person violates the CPRA so long as the business does “not have actual knowledge, or reason to believe, that the person intends to commit such a violation.” <sup>72</sup> The CPRA does <u>not</u> require a business to conduct due diligence, or impose a duty upon the business to investigate or inquire about the privacy practices of a third party.	<ul style="list-style-type: none"> <li>• Businesses may need to design a program to conduct due diligence on all third party data recipients (e.g., auditing, contract review, questionnaires, and/or other forms of monitoring). Such a program may need to be in addition to any existing due diligence activities that are focused on other compliance-related concerns (e.g., data security).</li> <li>• Businesses may need to allocate sufficient staff and resources to implement the due diligence program on an ongoing basis.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
43.	§ 7102(a)(1)(B)	<u>Report quantity of correction requests received.</u> The Proposed Regulation would require businesses that process personal information regarding more than 10 million Californians to compile the quantity of correction requests received each calendar year	<p>The CPRA does <u>not</u> require businesses to publish metrics regarding correction requests.</p> <p>The current CCPA Regulations require that a business that collects personal information of more than 10 million Californians publish metrics regarding access, deletion, and opt-out requests; it does <u>not</u> require that such metrics be published regarding correction requests.</p>	<ul style="list-style-type: none"> <li>• Impacted businesses would be required to compile and review the quantity of correction requests received each calendar year.</li> <li>• For businesses that don’t keep correction requests in an automated database, that requirement may necessitate a manual review of correction requests received via multiple channels (e.g., offline, online) and multiple business personnel (e.g., data privacy officer, human resources, customer service, etc.).</li> <li>• Note that for businesses that have routinely handled correction-like requests prior to the CPRA (e.g., as a matter of course through</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

<sup>72</sup> CAL. CIV. CODE § 1798.135(g) (West 2022).

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
				customer service), the Proposed Regulation may require such requests to be centralized, managed, and tracked in a manner that facilitates reporting separate and apart from the manner in which they are currently handled.	
44.	§ 7102(a)(1)(E)	<u>Report quantity of requests to limit the use of sensitive personal information.</u> The Proposed Regulation would require businesses that process personal information regarding more than 10 million Californians to compile and publish statistics regarding the quantity of “requests to limit” that the business received.	<p>The CPRA does <u>not</u> require businesses to publish metrics regarding requests to limit the use of sensitive information.</p> <p>The current CCPA Regulations require that a business that collects personal information of more than 10 million Californians publish metrics regarding access, deletion, and opt-out requests; it does <u>not</u> require that such metrics be published regarding limit the use of sensitive information requests.</p>	<ul style="list-style-type: none"> <li>Businesses would be required to compile and review the quantity of limit the use requests received each calendar year.</li> <li>For businesses that don’t keep limit the use requests in an automated database, that requirement may necessitate a manual review of such requests received via multiple channels (e.g., offline, online) and multiple business personnel (e.g., data privacy officer, human resources, customer service, etc.).</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>
45.	§ 7102(a)(1)(F)	<u>Report elapsed time to respond to correction and limit the use requests.</u> The Proposed Regulation would require businesses that process personal information regarding more than 10 million Californians to compile and publish statistics regarding the median or mean number of days the business took to respond to correction requests and limit the use of sensitive personal information requests.	<p>The CPRA does <u>not</u> require businesses to publish metrics regarding correction requests.</p> <p>The current CCPA Regulations require that a business that collects personal information of more than 10 million Californians publish metrics regarding access, deletion, and opt-out requests; it does <u>not</u> require that such metrics be published regarding correction or limit the use requests.</p>	<ul style="list-style-type: none"> <li>In addition to the compliance steps described above in relation to 7102(a)(1)(B) and 7102(a)(1)(E), a business would need to calculate the elapsed time between the date that each correction and limit the use request was received and the date that the business provided a substantive response to the request.</li> <li>For businesses that don’t keep such requests in an automated database, this requirement may necessitate a manual review of the date that requests were received via multiple channels (e.g., offline, online) and multiple business personnel (e.g., data privacy officer, human resources, customer service, etc.), as well as the date the business substantively responded to the request.</li> <li>Note that businesses that have routinely handled correction-like requests prior to the CPRA (e.g., as a matter of course through customer service), the Proposed Regulation may require that such requests be centralized, managed, and tracked in a manner that facilitates reporting separate and apart from the manner in which they are currently handled.</li> <li>Businesses would be required to modify their privacy notices to include the new metric.</li> </ul>	<b>Not accounted for by BEAR / 0 hours and \$0 assigned</b>

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the “Delta”)	Burden accounted for by the CPPA / BEAR within the EIS
46.	§ 7304(c)	<p><b>Unannounced audits.</b> The Proposed Regulation would allow the CPPA to conduct “announced or unannounced” audits.</p>	<p>The CPPA and the Office of the California Attorney General do <u>not</u> currently conduct “unannounced” audits or investigations of companies. Currently inquiries from the Office of the California Attorney General take the form of notices of violation, requests for information, requests for documents, or requests for interviews; all such investigatory mechanisms have provided at least 30 days for the company to identify, collect, and transmit requested information or documents.</p> <p>The CPRA does <u>not</u> discuss “unannounced” or surprise audits.</p>	<ul style="list-style-type: none"> <li>• Unannounced audits are – by their nature – disruptive to normal business operations as the company does not have time to efficiently review requests for materials in advance, prepare the requested materials, and identify relevant personnel with information requested. BEAR did not account for the business disruption inherent in responding to an unannounced audit by a government agency.</li> <li>• Businesses may need to develop a policy, procedure, and protocol for responding to unannounced audits.</li> <li>• Businesses may need to train their staff on the policy, procedure and protocol (see previous bullet) to ensure that staff notify correct personnel internally in the event of an unannounced audit, fully comply with legitimate requests of the auditor, and protect company and personal information from any request that may be overly broad, unduly burdensome, or injurious to the company or to the rights of other individuals.</li> <li>• Businesses that maintain government access policies (sometimes referred to as law enforcement policies) may need to revise those policies to account for unannounced audits.</li> <li>• The Proposed Regulation anticipates that the CPPA may request, as part of its audit, access to personal information. <i>See</i> Proposed Regulation § 7304(e). Business may need to determine whether granting access to personal information about Californians would also allow the CPPA to access personal information of non-Californians (i.e., residents of other jurisdictions).</li> <li>• To the extent that a business could not ensure during an “unannounced” audit that information about non-Californians could be screened from the CPPA, the business would need to determine whether the right of the CPPA to conduct unannounced audits would interfere with other non-California data privacy laws – such as the European GDPR – or contractual prohibitions that either prevent</li> </ul>	<p><b>Not accounted for by BEAR / 0 hours and \$0 assigned</b></p>

	Proposed Regulation	New obligation that would be imposed on businesses	Comparison to existing law or regulation	Compliance burden that would be imposed by the Proposed Regulations (the "Delta")	Burden accounted for by the CPPA / BEAR within the EIS
				<p>the business from granting access to personal information or mandate that the business notify business partners and provide them with the opportunity to object and intervene prior to granting the auditor access to personal information.</p> <ul style="list-style-type: none"> <li>• Among other things, businesses that have executed the European Commission approved Standard Contractual Clauses ("SCC") are required to conduct an analysis of the laws and practices of the jurisdiction in which data has been transmitted (in this case the United States/California) to determine whether any law would allow the "disclosure of data to public authorities or authori[ze] access by such authorities" and to document that analysis (often referred to as a "transfer impact assessment"). Businesses may need to revise and amend their transfer impact assessments to account for "unannounced" audits by the CPPA and present those impact assessments to contracting parties to determine whether the CPPA's powers prevent full compliance with the SCCs.</li> </ul>	

As the above table reveals, BEAR did not account for the compliance burden of more than 45 new obligations in the Proposed Regulations.

As for the three compliance obligations that BEAR considered, BEAR's estimate of the compliance burden does not, on its face, account for the business processes needed to comply with the Proposed Regulations. The following details business processes that were not accounted for in the BEAR analysis with just one of those sections:

	<b>Proposed Regulation</b>	<b>Obligation that would be imposed upon businesses</b>	<b>Comparison to existing law or regulation</b>	<b>BEAR’s analysis of the compliance burden</b>	<b>Deficiencies in BEAR’s analysis</b>	<b>Actual Compliance Burden</b>
47.	§ 7012(e)(6)	<u>Identify the name of third parties allowed to control collection of personal information.</u> The Proposed Regulation defines, for the first time, third parties that “control the collection” of a personal information. <sup>73</sup> The Proposed Regulation would require that if Business A allows third parties to control the collection of personal information, Business A must include the “name of all third parties” within Business A’s notice at collection.	The BEAR Report correctly identifies that the CPRA and current CCPA Regulations do not include a similar requirement.	BEAR determined that an analogous requirement is imposed by the European GDPR, and that industry estimates indicate that 16.37% of CCPA-subjected firms are also subject to the GDPR. BEAR assumed that all GDPR-subject firms were already in compliance with this provision, and thus assigned \$0 in compliance burden to those firms.  For those companies that are not subject to the GDPR, BEAR estimated that it would take “approximately 1 hour of work” to “add a drop-down menu disclosing their (pre-existing list of third parties).” Their estimate was based on a number of assumptions including the assumption that “any company affected by the CCPA will use an existing employee at the firm level who is familiar with the code base opposed to a consultant.” Bear Report at 12. They also assumed that there would only be a one-time cost because “[a]lthough the list of third parties might require updating from time-to-time, this will be a simple task and is unlikely to change significantly over the course of a 12-month period.”	BEAR’s assumption that organizations subject to the GDPR are already in compliance with this obligation is speculative. While the GDPR requires that companies disclose the names of third parties that collect personal information on websites, for US companies subject to the Art. 3(2) jurisdiction of the GDPR that requirement only applies to the company’s EEA-directed websites. As a result, companies that maintain EEA-directed website and separate US-directed websites would <u>not</u> be in compliance with this obligation in connection with their US-directed websites. BEAR did not make any effort to (a) determine the percentage of GDPR-governed companies that operate jurisdiction-specific websites, or (b) investigate whether jurisdiction-specific websites in the US and the EEA allow the same third parties to collect personal information.  BEAR assumed that companies have already identified a list of third parties that control the collection of information. That assumption lacks foundation. Although the CPRA and the current CCPA Regulations require companies to identify whether they are sharing information with third parties, they do <u>not</u> require companies to identify which third parties fall under the new definition of third parties that control collections, nor do they require that companies identify which third parties control the collection of personal information for each website that the company operates.  BEAR assumed the use of third parties is “unlikely to change significantly over time.” That assumption also lacks foundation; BEAR did not identify the rate at which businesses modify the third parties allowed to collect personal information on a website.  BEAR assumed the list of third parties mandated by the Proposed Regulation would only need to be updated once every 12 months. The Proposed Regulations do not appear to contain any such limitation.	<ul style="list-style-type: none"> <li>• Businesses would need to audit each website that they maintain to determine which third parties are allowed to collect personal information from those websites.</li> <li>• Businesses would need to modify their notice at collection to identify those third parties by name.</li> <li>• Businesses would need to design an internal process by which the addition, or subtraction, of third parties that are allowed to collect personal information from websites triggers a process by which the notice at collection is updated for accuracy.</li> </ul>

<sup>73</sup> Proposed Regulation § 7012(g).

\* \* \* \*

The CPPA has failed to comply with administrative processes and, as a result, has raised significant concerns about government transparency and the viability of the Proposed Regulations. Specifically:

- The CPPA’s economic consultant admitted that it identified more compliance burdens than the three that it analyzed, but that it was dissuaded by unidentified staff at the CPPA from including those compliance burdens in its Report.
- The CPPA has produced no notes or transcripts from the meeting held with its economic consultant and has asserted that, if any records exist, they are exempt from disclosure based upon the attorney-client privilege (without identifying the requisite foundation for such an assertion).
- As shown in this comment, the Proposed Regulations would impose on businesses more than 45 new obligations unaccounted for by the CPPA, and that would result in significant new compliance burdens. An analysis of these 45 requirements would undoubtedly cause the Proposed Regulations to be classified as a “major regulation” under California law.
- The CPPA has disregarded the procedural requirements for promulgating a major regulation, including creating a SRIA or consulting with the DOF.

To remedy the above deficiencies the CPPA should complete a SRIA, submit it to the DOF for analysis and publication, and consider alternatives and modifications to the Proposed Regulations that would decrease the significant compliance impact of the Proposed Regulations. Only once that process has been completed should a revised Proposed Regulation be resubmitted for 45-day notice and comment. Without adhering to the APA’s processes, which are designed to give consumers, stakeholders, and government agencies alike proper notice of the impact a proposed regulation might have, the Proposed Regulations (if adopted) will be susceptible to collateral attack as invalid and unenforceable.

The CPPA had to adopt final regulations implementing the CPPA by July 1, 2022.<sup>74</sup> The CPPA missed that timeline by a large mark. Indeed, it didn’t even publish its notice of proposed rulemaking until after the time that the regulations were supposed to be finalized. Lost time cannot be made up by short-circuiting the administrative process designed to protect the public from legislation by regulation. If the agency continues to deprive the public of the protections of the APA, the resulting regulations will not be in the best interest of the state of California, will lead to confusion and inefficiencies for businesses, and will be ripe for judicial challenge.

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<sup>74</sup> CAL. CIV. CODE § 1798.185(d) (West 2022).

Attn: Brian Soublet

August 17, 2022

Page 33

Sincerely,

A handwritten signature in black ink, appearing to read "D. A. Zetony". The signature is fluid and cursive, with the first name "D. A." and the last name "Zetony" clearly distinguishable.

David A. Zetony, Shareholder & Co-Chair US Privacy and Security Practice

Andrea Maciejewski, Associate

Madison Etherington, Intern

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EXHIBIT A:

Response to Public Records Act Request from Amos E. Hartston

Dated July 26, 2022

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**From:** [Amos Hartston](#)  
**To:** [Etherington, Madison \(LC-DEN-IP-Tech\)](#)  
**Subject:** Your Public Records Act request (2022-01522)  
**Date:** Tuesday, July 26, 2022 3:12:33 PM  
**Attachments:** [Response to Etherington PRA Request \(2022-01522\).pdf](#)

---

**\*EXTERNAL TO GT\***

Dear Ms. Etherington,

Please find the attached correspondence related to your Public Records Act request.

Amos E. Hartston  
Deputy Attorney General  
California Department of Justice  
300 S. Spring Street, Suite 1702  
Los Angeles, CA 90013  
[amos.hartston@doj.ca.gov](mailto:amos.hartston@doj.ca.gov)

**CONFIDENTIALITY NOTICE:** This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

**ROB BONTA**  
**Attorney General**

**State of California**  
**DEPARTMENT OF JUSTICE**



300 SOUTH SPRING STREET, SUITE 1702  
LOS ANGELES, CA 90013

Public: (213) 269-6000  
Telephone: (213) 269-6046  
Facsimile: (213) 897-4951  
E-Mail: [amos.hartston@doj.ca.gov](mailto:amos.hartston@doj.ca.gov)

July 26, 2022

Madison Etherington  
[Madison.etherington@gtlaw.com](mailto:Madison.etherington@gtlaw.com)

Re: Your Public Records Act Request (2022-01522)

Dear Ms. Etherington:

This letter responds to your July 18, 2022 request, in which you seek various records pursuant to the Public Records Act as set forth in Government Code section 6250 *et seq.* Specifically, you requested the following records:

Any notes and transcripts related to a discussion which occurred prior to June 27, 2022, between Berkeley Economic Advising and Research (BEAR) and the California Privacy Protection Agency (CPPA) and staff regarding the economic and regulatory impacts of the California Consumer Privacy Act Regulations proposed by CPPA.

The comments to your request further clarify the discussion for which you are seeking notes or transcripts as follows:

Berkeley Economic Advising and Research (“BEAR”) state on page 1-2 in their Report, available here: [https://cppa.ca.gov/regulations/pdf/std\\_399\\_attachment.pdf](https://cppa.ca.gov/regulations/pdf/std_399_attachment.pdf), that during their initial review of the Proposed Regulations they “initially believed that there could be a regulatory impact.” The Report alludes to a “discussion” with the CPPA and unidentified “supporting staff” during which the supporting staff apparently argued that “most of the potential regulatory ‘deltas’” that BEAR had identified “were reiterated [in] the existing CPRA amendments or existing regulations from the CCPA.”

Our Office does not have the requested notes or transcripts. Further, the California Privacy Protection Agency (“CPPA”) has entered into a contract with BEAR, referenced as California Privacy Protection Agency Economic Analysis Consulting Services Contract, Agreement No. CPPA-21-96710, pursuant to which BEAR performs threshold economic analyses in support of the agency’s rulemaking efforts. Accordingly, the records you seek may be subject to exemptions from disclosure. In addition, our Office serves as legal counsel to the CPPA. To the extent our Office maintains records related to our representation of the agency, such records are exempt from disclosure. Confidentiality privileges set forth elsewhere in law, including the attorney-client privilege contained in Evidence Code section 954, are expressly

Madison Etherington  
July 26, 2022  
Page 2

incorporated into the Public Records Act and the public interest is served in supporting our Office's ability to provide confidential advice and counsel to the agency. (Gov. Code, §§ 6254, subd. (k), 6255.)

We hope the information we are able to provide is of assistance to you.

Sincerely,



AMOS E. HARTSTON  
Deputy Attorney General

For ROB BONTA  
Attorney General

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**EXHIBIT B:**

**Response to Public Records Request from CPPA**

**Dated August 10, 2022**

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**From:** [Legal@CPPA](mailto:Legal@CPPA)  
**To:** [Etherington, Madison \(LC-DEN-IP-Tech\)](mailto:Etherington, Madison (LC-DEN-IP-Tech))  
**Subject:** RE: ATTN: PRA Coordinator  
**Date:** Wednesday, August 10, 2022 10:55:45 AM  
**Attachments:** [image001.png](#)  
[California Privacy Protection Agency DOF - 130, Major Regulations..pdf](#)  
[DOF-130 2022 Major Reg \(002\).pdf](#)  
[BEAR SRIA Contract.pdf](#)

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**\*EXTERNAL TO GT\***

The California Privacy Protection Agency (CPPA) acknowledges receipt of your August 4, 2022, request made pursuant to the California Public Records Act (Government Code Section 6250 et seq.) for copies of the following records:

1. Any notes and transcripts related to a discussion which occurred prior to June 27, 2022, between Berkeley Economic Advising and Research (BEAR) and the California Privacy Protection Agency (CPPA) and staff regarding the economic and regulatory impacts of the California Consumer Privacy Act Regulations proposed by CPPA.
2. Any documents notifying the Department of Finance of the California Privacy Protection Agency's intent to propose a major regulation and any Statement of Regulatory Impact Assessment provided by CPPA to the Department of Finance related to such major regulation.
3. A copy of the California Privacy Protection Agency Economic Analysis Consulting Services Contract, Agreement No. CPPA-21-96710.

In compliance with Government Code Section 6253, the CPPA hereby responds:

1. Any notes and transcripts related to discussions between Berkeley Economic Advising and Research and the CPPA are subject to exemptions from disclosure. The records maintained by the Agency are exempt from disclosure pursuant to the confidentiality privileges set forth in California law, including the attorney-client privilege contained in Evidence Code section 954, which are expressly incorporated into the Public Records Act and the public interest is served in supporting Agency counsel's ability to provide confidential advice and counsel to the Agency. (Government Code § 6254, subd. (k); see also Gov. Code § 6255.)
2. Attached please find:
  - A. Email dated January 28, 2022 to [MajorRegulations@dof.ca.gov](mailto:MajorRegulations@dof.ca.gov) from Brian Soublet.
  - B. Form DF-130, 2022 California Major Regulations Calendar.
3. Attached please find a copy of Standard Agreement CPPA 21-96710.

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**From:** [Madison.Etherington@gtlaw.com](mailto:Madison.Etherington@gtlaw.com) <[Madison.Etherington@gtlaw.com](mailto:Madison.Etherington@gtlaw.com)>

**Sent:** Thursday, August 4, 2022 9:09 AM  
**To:** Legal@CPPA <Legal@cpga.ca.gov>  
**Subject:** ATTN: PRA Coordinator

**WARNING:** This message was sent from outside the CA Gov network. Do not open attachments unless you know the sender: [prvs=5215f027f3=madison.etherington@gtlaw.com](mailto:prvs=5215f027f3=madison.etherington@gtlaw.com)

Hello,

Pursuant to the California Public Records Act (Government Code § 6250 et. seq.), I request that you make available for inspection and copying the following public records:

1. Any notes and transcripts related to a discussion which occurred prior to June 27, 2022, between Berkeley Economic Advising and Research (BEAR) and the California Privacy Protection Agency (CPPA) and staff regarding the economic and regulatory impacts of the California Consumer Privacy Act Regulations proposed by CPPA.
2. Any documents notifying the Department of Finance of the California Privacy Protection Agency's intent to propose a major regulation and any Statement of Regulatory Impact Assessment provided by CPPA to the Department of Finance related to such major regulation.
3. A copy of the California Privacy Protection Agency Economic Analysis Consulting Services Contract, Agreement No. CPPA-21-96710.

If you are not the custodian of records for this request, please forward this request to the appropriate person or let me know which person(s) has custody of these records. I ask that records available in electronic format be transmitted by email to [madison.etherington@gtlaw.com](mailto:madison.etherington@gtlaw.com).

Best,  
Madison

**Madison Etherington**  
Law Clerk

Greenberg Traurig, LLP  
1144 15th Street, Suite 3300 | Denver, Colorado 80202  
T +1 303.685.7415  
[Madison.Etherington@gtlaw.com](mailto:Madison.Etherington@gtlaw.com) | [www.gtlaw.com](http://www.gtlaw.com)



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If you are not an intended recipient of confidential and privileged information in this email, please delete it, notify us immediately at [postmaster@gtlaw.com](mailto:postmaster@gtlaw.com), and do not use or disseminate the information.

**From:** [Soublet, Brian@CPPA](mailto:Soublet,Brian@CPPA)  
**To:** [MajorRegulations@dof.ca.gov](mailto:MajorRegulations@dof.ca.gov)  
**Subject:** California Privacy Protection Agency DOF - 130, Major Regulations.  
**Date:** Friday, January 28, 2022 2:48:00 PM  
**Attachments:** [DOF-130 2022 Major Reg.pdf](#)

---

Attached please find the form DOF-130, identifying a potential 2022 major regulation for the California Privacy Protection Agency

Thanks,

Brian G. Soublet  
Acting General Counsel  
California Privacy Protection Agency.

## 2022 CALIFORNIA MAJOR REGULATIONS CALENDAR

DF-130 (REV12/21)

Agency Name and Responsible Agency Unit:	
Name of Proposed Regulation:	Projected Date of Notice of Proposed Action:
CCR Title and Sections Affected:	Statute(s), Propositions or Court Decision Being Implemented:
Brief summary of the proposed regulation (1 paragraph or less):	Contact Person:
	Email Address:
	Telephone Number:
	Mailing Address:

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER  
CPPA 21-96710

PURCHASING AUTHORITY NUMBER (If Applicable)  
1703

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

California Privacy Protection Agency

CONTRACTOR NAME

Berkeley Economic Advising and Research, LLC

2. The term of this Agreement is:

START DATE

March 21, 2022 or upon DGS/OLS approval, whichever is later

THROUGH END DATE

March 20, 2023

3. The maximum amount of this Agreement is:

\$220,720.00 - Two Hundred Twenty Thousand Seven Hundred Twenty Dollars and Zero Cents

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Scope of Work	4
Exhibit A, Attachment 1	Contractor Key Personnel Resumes	8
Exhibit B	Budget Detail and Payment Provisions	2
+ - Exhibit B, Attachment 1	Cost Sheet	3
+ - Exhibit C *	General Terms and Conditions	GTC 04/2017
+ - Exhibit D	Special Terms and Conditions	4

Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

**CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

Berkeley Economic Advising and Research, LLC

CONTRACTOR BUSINESS ADDRESS

1442A Walnut St., Suite 108

CITY

Berkeley

STATE

CA

ZIP

94709

PRINTED NAME OF PERSON SIGNING

David Wells Roland-Holst

TITLE

Executive Director

CONTRACTOR AUTHORIZED SIGNATURE

*David Wells Roland-Holst*  
David Wells Roland-Holst (Mar 15, 2022 11:42 PDT)

DATE SIGNED

03/15/2022

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER CPPA 21-96710	PURCHASING AUTHORITY NUMBER (If Applicable) 1703
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**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

California Privacy Protection Agency

CONTRACTING AGENCY ADDRESS

2101 Arena Blvd.

CITY

Sacramento

STATE

CA

ZIP

95834

PRINTED NAME OF PERSON SIGNING

Ashkan Soltani

TITLE

Executive Director

CONTRACTING AGENCY AUTHORIZED SIGNATURE

*Ashkan Soltani*

DATE SIGNED

03/15/2022

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL



EXEMPTION (If Applicable)

**EXHIBIT A**  
**SCOPE OF WORK**

Government Code Sections 11346.3 requires state agencies proposing to adopt, amend, or repeal any administrative regulation to assess the potential for adverse economic impact on California business enterprises and individuals, avoiding the imposition of unnecessary or unreasonable regulations or reporting, recordkeeping, or compliance requirements. In November of 2020, voters approved Proposition 24, The California Privacy Rights Act of 2020 (CPRA). The CPRA cements California's place as the nation's leader in consumer privacy by amending and extending the California Consumer Privacy Act of 2018 (CCPA), the first comprehensive consumer privacy law in the United States. The new law is intended to "protect consumers' rights, including the constitutional right of privacy." The rulemaking obligation should be completed by July 1, 2022 as stipulated in statute. Before the regulations can be adopted, a series of threshold economic impact analyses must be performed, including determining whether one or more Standardized Regulatory Impact Analyses are needed to support the California Privacy Protection Agency's ("CPPA" or "the Agency" herein) rulemaking efforts. (Gov. Code Sections 11342.548, 11346.2 (b)(2)(B), and 11346.3 (c)).

**1. AGREEMENT SUMMARY**

- A. Based on regulatory assumptions provided by the Agency related to the provisions of the California Privacy Rights Act of 2020 ("CPRA" herein), Contractor shall conduct Economic Impact Analyses assessing the potential for adverse economic impact caused by implementing proposed regulations. If Contractor's initial analyses concludes that the regulatory assumption provided by the Agency will have an impact of more than \$50 million, contractor shall prepare the necessary Standardized Regulatory Impact Assessments (SRIA) required by Government Code Sections 11346.2 (b)(2)(B) and 11346.3 (c).
- B. Berkeley Economic Advising and Research (Contractor) shall utilize qualified and experienced economists/experts and support staff in the field of Economics, Economic policy, and the California Privacy Protection Act. A "qualified and experienced economist" is a person who has a minimum of three (3) years of experience conducting economic analysis in the state of California and is familiar with the Department of Finance and Legislative Analyst's Office Standardized Regulatory Impact Assessment (SRIA) review and approval process.
- C. The rate(s) specified in Exhibit B, Attachment 1, Cost Sheet, shall stay in effect for the entire Agreement term.

**2. PROJECT REPRESENTATIVES**

The project representatives during the term of this Agreement will be:

State: CPPA	Contractor: Berkely Economic Advising and Research
Name: Vongayi Chitambira	Name: David Wells Roland-Holst
Phone: (279) 895-1412	Phone: (510) 220-4567
Email: <a href="mailto:Vongayi.Chitambira@coppa.ca.gov">Vongayi.Chitambira@coppa.ca.gov</a>	Email: <a href="mailto:dwrh@berkeley.edu">dwrh@berkeley.edu</a>

Either party may make changes to the above contract information by giving written notice to the other. Said changes shall not require an amendment to this Agreement.

### 3. LOCATION

- A. The services shall be performed primarily at the Contractor's office and at the discretion and approval of the CPPA, occasional in-person meetings at CPPA's office located in Sacramento, California.
- B. Travel costs, if approved by the CPPA, will be reimbursed in accordance with the State's Department of Human Resources (CalHR).
  - 1. Contractor will submit a travel request prior to making travel arrangements. The request must identify the number and qualifications of people to support the travel, estimated transportation costs and number of days that will be charged. The number of support staff must be in mutual agreement and travel request preapproved by the Contract Administrator prior to finalizing travel arrangements.
  - 2. The Contractor will be compensated for actual incurred travel expenses based upon the per diem rates used for State employees, upon receipt and approval of an itemized invoice. Travel Reimbursement rates and applicable restrictions are identified on the Employee/Travel Reimbursement section of the California Department of Human Resources website- (<http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>).
  - 3. Contractor must submit Contract Administrator's written approval along with itemized receipts when invoicing for reimbursement.

### 4. PERFORMANCE DETAILS

- A. Contractor shall conduct and submit an economic impact analysis of the California Privacy Rights Act of 2020 (CPRA) to CPPA.
- B. If the impact exceeds the \$50 million threshold, Contractor shall conduct and complete a SRIA upon completion of the economic impact analysis and submit the SRIA to CPPA.
- C. Contractor shall make available via encrypted email delivery, or secured website, computer readable copies of the Economic Assessment and SRIA.
- D. Contractor shall submit the economic analysis and SRIA to, CPPA, the Department of Finance, and the Legislative Analyst's Office.
- E. All of the Contractor's work product and information provided by and to CPPA under this contract is confidential and shall not be disclosed, except as provided in paragraph 3 D herein, without the express written permission of the CPPA.
- F. Tasks:
  - 1. Project Team Management – The project will begin with the establishment of the project team and development of a detailed project plan for implementation.
    - a. Contractor shall develop a process of how the Fiscal Impact

Analysis (STD 399) will be performed in consultation with the rulemaking team.

- b. Contractor shall develop a process of how the Standard Regulatory Impact Assessment (SRIA) will be performed in consultation with the rulemaking team.
- c. Contractor will identify resources required to complete the project.
- d. Deliverables from this task are:
  - i. Team member(s), key milestones and key dates identified.
  - ii. Project plan to be delivered no later than 2 weeks of project initiation and maintained for the project duration.

2. Execution of the Project Plan – The Contractor shall start on research and analysis.

- a. The Contractor shall adhere to the project plan developed under Task 1 above.
- b. Deliverables from this task are:
  - i. Progress reports detailing the status of the project to be delivered to the CPPA Contract Administrator every 2 weeks for the duration of the project.
  - ii. Fiscal Impact Analysis and, if necessary, SRIA(s) developed and submitted in relation to rulemaking proposals as developed in an iterative process by the CPPA. Each shall include Methodology, Analysis of Impacts, and Summary of Economic Results.
  - iii. Project close-out report to be delivered at project conclusion which details everything completed during the project.
  - iv. Submission of cumulative summary of economic impact analysis of the California Privacy Rights Act of 2020 (CPRA) and SRIA, if applicable, to CPPA

**5. PERFORMANCE REVIEW AND ACCEPTANCE CRITERIA**

- A. It shall be CPPA's sole determination as to whether the Contractor's performance has been successfully completed and is acceptable to the State.

**6. LATE REPORT SUBMISSION**

- A. If the Contractor exceeds the turnaround timeframe on the assessment and SRIA without CPPA approving an extension in advance, the assessment and SRIA is deemed "late." Late completion shall be assessed a penalty equal to ten percent (10%) of the assessment value per day for each day late, starting the first day after the original due date. The penalty shall be reflected on the invoice submitted to CPPA. In the event the Contractor does not include the penalty on the invoice, CPPA may dispute the invoice and subtract the penalty from the invoice.

**7. LIQUIDATED DAMAGES**

- A. In the event that Contractor fails to deliver in accordance with the contract requirements, the parties agree that the delay will interfere with the proper implementation of the State's programs, to the loss and damage of the State. From the nature of the case, it would be impracticable and extremely difficult to fix the

actual damages sustained in the event of any such delay. The State and Contractor, therefore, presume that in the event of any such delay the amount of damage which will be sustained from a delay will be the amounts set forth in above, and the State and the Contractor agree that in the event of any such delay, Contractor shall pay such amounts as liquidated damages and not as a penalty. Amounts due the State as liquidated damages may be deducted by the State from any money payable to the Contractor. The State shall notify Contractor in writing of any claim for liquidated damages pursuant to this paragraph on or before the date State deducts such sums from money payable to the Contractor.

**EXHIBIT A, ATTACHMENT 1**

**CONTRACTOR KEY PERSONNEL RESUMES**

***Curriculum Vitae***  
**David W. Roland-Holst**

***Business Address:***

207 Giannini Hall  
University of California  
Berkeley, CA 94720-3310  
Tel: 1-510-220-4567

***Home Address:***

  
email: [dwrh@berkeley.edu](mailto:dwrh@berkeley.edu)  
Fax: 510-524-4591

***Fields of Specialization:***

Energy Economics, Environmental Economics, Economic Forecasting, International Economics

***Higher Education:***

B.A.	Economics	Case Western Reserve University
B.S.	Mathematics	Case Western Reserve University
M.A.	Economics	University of California, Berkeley
Ph.D.	Economics	University of California, Berkeley

***Professional Experience:***

Adjunct Professor, Departments of Economics and Agricultural and Resource  
Economics, UC Berkeley  
June, 2003 – Present  
Managing Director, Berkeley Economic Advising and Research  
Berkeley, California [www.bearecon.com](http://www.bearecon.com)  
June, 2001 - Present  
Senior Economist and Head of Program, OECD Development Centre, Paris  
June 1993 – June 1995  
Senior International Economist, United States International Trade Commission  
August 1989 – July 1990  
Occasional consultant to government agencies, World Bank, IMF,  
OECD, ADB, and other public and private organizations.

***Team Lead on Following Economic Analyses (Selected Projects)***

1. Decommissioning of the Diablo Canyon Nuclear Power Plant California Public Utilities Commission, September 2019.
2. Standardized Regulatory Impact Assessment (SRIA): California Consumer Privacy Act, Department of Justice. 2019.
3. SRIA: Occupational Exposure to Lead Safety Standards, Department of Industrial Relations. 2019.
4. SRIA: Fall Protection Standards - Construction/Roofing, Department of Industrial Relations. 2019.
5. Economic Assessment of California's Long-term Energy Scenarios (LTES), California Energy Commission, March, 2018.
6. SRIA: Title 8, Group V Elevator Safety Orders, Department of Industrial Relations. 2017.
7. SRIA: Appliance Efficiency Standards, California Energy Commission. 2016.
8. Economic Impact Assessment for SB 350, Report to the California ISO. December 2016.
9. Cap and Trade Structural Transition in the California Economy. Energy Foundation. 2007.

David Roland-Holst is a Professor in the Departments of Economics and Agricultural and Resource Economics and Managing Director of Berkeley Economic Advising and Research, LLC. Dr. Roland-Holst has extensive research experience in economics related to energy, environment, and international trade, authoring five books and over 100 articles and chapters in professional journals and books. Professor Roland-Holst has served in academic posts in the United States, Europe, and Asia. He has conducted research in over 40 countries, working with many public institutions in the United States and abroad. More recently, he has been a prolific contributor to policy research in California. Addressing Cap and Trade, energy efficiency, electric vehicles, low-carbon fuels, and an array of climate adaptation challenges facing the state, Roland-Holst's research has been central to the passage, design, and implementation of California's path breaking Global Warming Solutions Act. Managing Director, Berkeley Economic Advising and Research Professor Roland-Holst holds a Ph.D. in Economics from the University of California, Berkeley and is a US citizen.

### **Selected Research on Economic Policy**

#### Books

10. California Climate Change: Risk and Response, with Fredrich Kahrl, University of California Press, Berkeley, 2012.
11. Health and Agriculture in Developing Countries. with David Zilberman, Joachim Otte, and Dirk Pfeiffer, Springer: New York, 2012.
12. Agriculture, Élevage et Pauvreté an Afrique de l'Ouest, (ed.) with A.A. Mbaye a and J. Otte, Editions CREA-Panafrika, Dakar, 2007.

#### Recent Published Articles and Chapters in Books

13. "Achieving 40 percent Greenhouse Gas Emissions Reduction by 2030 in California," S. Yeh, A. R. Eggert, C. Yang, J.B. Greenblatt, M. Wei, J.H. Williams, G. Brinkman, J. Cunningham, Energy Strategy Reviews, Forthcoming.
14. "Comparison of Low-Carbon Pathways for California," with Geoff M. Morrison, Sonia Yeh, Anthony R. Eggert, Christopher Yang, James H. Nelson, Jeffery B. Greenblatt, Raphael Isaac, Mark Z. Jacobson, Josiah Johnston, Daniel M. Kammen, Ana Mileva, Jack Moore, Max Wei, John P. Weyant, James H. Williams, Ray Williams, Christina B. Zapata, Climatic Change, 131.4 (2015): 545-557.
15. "Climate Risk and Response in the Pacific Rim," (2013), in Singh and Kohli, Oxford Economic Handbook of the Pacific Rim, Oxford Univeristy Press, New York.
16. "Past as Prologue? Understanding energy use in post-2002 China," with F. Kahrl and D. Zilberman, Energy Economics, 2013, 36:759-771.
17. "Challenge of Biofuel: Filling the Tank without Emptying the Stomach," with D. Rajagopal, S.E. Sexton, and D. Zilberman, Environmental Research Letters, 2(2007), 044004 (9pp).

## SAM HEFT-NEAL

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Berkeley Economic Advising & Research  
1442A Walnut Street, Suite 108  
Berkeley, California 94705

Email: sheftneal@bearecon.com  
Web: bearecon.com

### EMPLOYMENT

Key Expert, Berkeley Economic Advising & Research (2007 - present)  
Research Fellow, Stanford University (2015 - present)

### EDUCATION

Ph.D. in Agricultural & Resource Economics, University of California, Berkeley, 2015  
B.A. in Statistics & Economics with Honors, University of California, Berkeley, 2007

### ARTICLES & STUDY REPORTS

BEAR 2021. "Beyond Mitigation: Quantifying the Development Benefits of Carbon Pricing". Prepared under contract for the World Bank as part of the Partnership for Market Readiness Project.

Sam Heft-Neal, Anne Driscoll, Wei Yang, Gary Shaw, & Marshall Burke. 2021. "Associations between wildfire smoke exposure during pregnancy and risk of preterm birth in California". *Environmental Research*, 203. [paper link].

Jonas Miller, Emily Dennis, Sam Heft-Neal, Booil Jo, & Ian Gotlib. 2021. "Fine Particulate Air Pollution, Early Life Stress, and their Interactive Effects on Adolescent Structural Brain Development: A Longitudinal Tensor-Based Morphometry Study". *Cerebral Cortex*, 346. [paper link].

Marshall Burke, Anne Driscoll, Sam Heft-Neal, Jenny Xue, Jennifer Burney, & Michael Wara. 2021. "The changing risk and burden of wildfire in the US". *PNAS*, 118 (2). [paper link].

Eran Bendavid, Ties Boerma, Nadia Akseer, Ana Langer, Espoir Bwenge Malembaka, Emelda A. Okiro, Paul Wise, Sam Heft-Neal, Robert E. Black & Zulfiqar A. Bhutta. 2021. "The effects of armed conflict on the health of women and children". *The Lancet*, 397 (10273). [paper link].

Sam Heft-Neal, Jen Burney, Eran Bendavid, Kara Voss & Marshall Burke. 2020. "Dust pollution from the Sahara and African infant mortality". *Nature Sustainability*, 3 (10). [paper link].

Nathan Lo, Ribhav Gupta, David Addiss, Eran Bendavid, Sam Heft-Neal, Alexei Mikhailov, Antonio Montresor & Pamela Sabina Mbabazi. 2020. "Comparison of World Health Organization and Demographic and Health Survey data to estimate sub-national deworming coverage in pre-school children". *PLOS Neglected Tropical Diseases*, 14 (8). [paper link].

BEAR. 2020. "Clean Transportation: An Economic Assessment of More Inclusive Vehicle Electrification in California" with David Roland-Holst, Annie Yi Chen, and Liam Frolund. Prepared on behalf of Next10.

BEAR. 2019. "Oregon's Cap-and-Trade Program (HB2020): An Economic Assessment" with David Roland-Holst, Sam Evans, and Drew Behnke. Prepared under contract for the Oregon Carbon Policy Office.

Zachary Wagner, Sam Heft-Neal, Paul Wise, Robert Black, Marshall Burke, Ties Boerma, Zulfiqar Bhutta & Eran Bendavid. 2019. "Women and children living in areas of armed conflict in Africa: a geospatial analysis of mortality and orphanhood". *The Lancet Global Health*, 7(12).

Nathan Lo, Sam Heft-Neal, Jean Coulibaly, Leslie Leonard, Eran Bendavid, & David Addiss. 2019. "State of

deworming coverage and equity in low-income and middle-income countries using household health surveys: a spatiotemporal cross-sectional study". *The Lancet Global Health*, 7(11).

Corey Bradshaw, Sarah Otto, Alicia Annamalay, Sam Heft-Neal, Zach Wagner, & Peter Le Souef. 2019. "Socio-economic and environmental determinants of child health among African nations". *BMJ Open*, 9(9).

BEAR. 2018. "Exploring Economic Impacts in Long-Term California Energy Scenarios" with David Roland-Holst Sam Evans, Drew Behnke, and Lucy Shim. Prepared under contract for the California Energy Commission.

Zach Wagner, Sam Heft-Neal, Zulfiqar Bhutta, Robert Black, Marshall Burke, & Eran Bendavid. 2018. "Armed conflict and child mortality in Africa: a geospatial analysis". *The Lancet*, 392 (10150).

Sam Heft-Neal, Jennifer Burney, Eran Bendavid, & Marshall Burke. 2018. "Robust relationship between air quality and infant mortality in Africa". *Nature*, 559 (7713).

Marshall Burke, Felipe Gonzalez, Patrick Baylis, Sam Heft-Neal, Ceren Baysan, Sanjay Basu, & Solomon Hsiang. 2018. "Rising temperatures increase suicide rates in the United States and Mexico". *Nature Climate Change*, 8 (1).

Nathan Lo, Jedidiah Snyder, David Addiss, Sam Heft-Neal, Jason Andrews, & Eran Bendavid. 2018. "Deworming in pre-school age children: A global empirical analysis of health outcomes". *PLOS Neglected Tropical Diseases*, 12 (5).

Sam Heft-Neal, Marshall Burke, & David Lobell. 2017. "Using remotely sensed surface temperature to estimate climate response functions". *Environmental Research Letters*, 12 (1).

BEAR. 2016. "Senate Bill 350 Study - Volume VII: Economic Impact Analysis" with David Roland-Holst, Drew Behnke, Sam Evans, and C Springer. Prepared for California ISO in response to SB 350's legislative requirements. June, 2016.

Marshall Burke, Sam Heft-Neal, & Eran Bendavid. 2016. "Understanding variation in child mortality across Sub-Saharan Africa: A spatial analysis". *The Lancet Global Health*, 4 (12).

"Modeling Asian Regional Integration, Supply Chains, Productivity, and Income Distribution" (2014) with David Roland-Holst and Sam Evans. Working paper prepared for the Asian Development Bank.

BEAR. 2013. "Economic Assessment of Market Conditions for PHA/PHB Bioplastics Produced from Waste Methane". with David Roland-Holst, Ryan Triolo and Bijan Bayrami. Prepared under contract for the California Department of Resources Recycling and Recovery. September 30, 2013.

## BOOK CHAPTERS

Early Warning Techniques for Local Climate Resilience - Smallholder Rice in Lao PDR (with David Roland-Holst and Drew Behnke) in *Climate Smart Agriculture, forthcoming*

"SMS marketing of native poultry in northern Thailand via eBird" (with David Roland-Holst, Drew Behnke, Zongyot Chaiwong, and Ryan Triolo) in *Decision Tools for Family Poultry Development*. FAO Animal Production and Health Guidelines No.16, 2014 Rome, Italy.

"Promoting Rural Livelihoods and Public Health through Poultry Contracting: Evidence from Thailand" (with D Roland-Holst and J Otte) in *Health and Animal Agriculture in Develop Countries*, edited by J. Otte, D. Roland-Holst, D. Pfeiffer, and D. Zilberman, Springer, 2011.

#### **PAPERS AND PROJECTS IN PROGRESS**

“Cost-Benefit analysis of proposed well-stimulation permit phase-out”  
(with BEAR for the CA Department of Conservation).

“Exposures and behavioral responses to wildfire smoke” (with Marshall Burke, Jessica Li, Anne Driscoll, Patrick Baylis, Matthieu Stigler, Joakim Weill, Jen Burney, Jeff Wen, Marissa Childs, & Carlos Gould)

“Geographically-resolved social cost of anthropogenic emissions accounting for both direct and climate-mediated effects” (with Geeta Persad, Jen Burney, Eran Bendavid, Jon Proctor, & Marshall Burke)

“Global Biomass Fires and Infant Mortality” (with Hemant Pullabhotla, Mustafa Zahid, Vaibhav Rathi, & Marshall Burke)

“Global stunting impacts from prenatal pollution exposure: evidence from a million children” (with Martin Heger, Vaibhav Rathi, & Marshall Burke)

“Medium and long run impacts of wildfire smoke exposure on hospitalizations” (with Chris Oh, Eran Bendavid, & Marshall Burke)

#### **FELLOWSHIPS AND AWARDS**

Top 10 Clinical Research Achievement Award 2018 (*for Heft-Neal et al 2018*)

National Science Foundation Graduate Research Fellowship 2011-2014

Outstanding Teaching Award, UC Berkeley, Fall 2012

One Health Research Fellowship, University of California Global Health Institute, 2011

## Drew Behnke

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**CONTACT  
INFORMATION**

[REDACTED]  
E-mail: [dbehnke@bearecon.com](mailto:dbehnke@bearecon.com)  
Web: [www.bearecon.com](http://www.bearecon.com)

**EDUCATION**

**University of California, Santa Barbara**

Ph.D., Economics, 2017

M.A., Economics, 2012

**University of California, Berkeley**

B.A., Economics, 2008

**FIELDS OF  
SPECIALIZATION**

Applied Econometrics and Environmental Economics

**EMPLOYMENT**

**Department of Agriculture and Resource Economics, University of California,  
Berkeley, *Postdoctoral Scholar*  
Berkeley, CA, 2018 - Present**

**Berkeley Economic Advising and Research (BEAR), *Principal*  
San Francisco, CA, 2014 - Present**

- BEAR is a professional partnership dedicated to the highest quality economic analysis.

**SELECTED  
CONSULTING  
EXPERIENCE**

**Name of Assignment or Project:** Guide on the Co-Benefits of Carbon Pricing

**Year:** 2020 - Present

**Location:** California, United States

**Clients:** World Bank

**Main Project Feature:** Responsible for creating a guide to help policymakers understand and incorporate carbon pricing co-benefits into their quantitative assessments.

**Position Held:** Senior Economist

**Activities Performed:** Duties include identifying relevant co-benefits and creating a user-friendly model to be used in the guide. Responsible for producing written report and presenting findings to key stakeholders.

**Name of Assignment or Project:** Standardized Regulatory Impact Assessment for California Regulations

**Year:** 2019 - Present

**Location:** California, United States

**Clients:** California Department of Industrial Relations, California Department of Justice, California Highway Patrol

**Main Project Feature:** California law requires that economic impacts analysis be performed for major state regulations. BEAR works with various state agencies to conduct economic analysis of proposed regulations. Analysis includes both microeconomic impacts and impacts on the State economy.

**Position Held:** Senior Economist

**Activities Performed:** Duties include collecting and analyzing relevant data, coordinating with experts with State government, conducting economic impact analysis, and writing detailed reports of findings.

**Name of Assignment or Project:** Diablo Canyon Power Plant Economic Impact Assessment

**Year:** 2018 - 2019

**Location:** California, United States

**Client:** California Public Utilities Commission (CPUC) **Main Project Feature:** At the request of the CPUC, we undertook an economic impact study on San Luis Obispo and neighboring communities resulting from the closure in 2024 — 2025 of the Diablo Canyon Power Plant (DCPP). Economic impacts were evaluated for DCPD closure, including shutdown of operations, the actions necessary to safely retire the plant and make the site eligible for alternative use, and the implementation of Senate Bill 1090, a special assistance measure to offset adjustment costs for the San Luis Obispo community.

**Position Held:** Senior Economist

**Activities Performed:** Developed Input-Output modeling strategies and scenario design. Estimated local economic and fiscal effects using input-output model. Performed econometric analysis on local housing and bond market. Attended stakeholder and client meetings. Reported and presented results.

**Name of Assignment or Project:** Economic Assessment of California's Long Term Energy Scenarios (LTES)

**Year:** 2017

**Location:** California, United States

**Client:** California Electricity Commission (CEC)

**Main Project Feature:** The California Energy Commission commissioned an economic analysis of California's Long-term Energy Strategy (LTES). This integrated policy framework is designed to accelerate Greenhouse Gas (GHG) emission reductions with a combination of more renewable electric power, electrification of transportation and heating, and a wide array of technology-driven energy efficiency improvements. Using a dynamic forecasting model of the California economy, BEAR conducted a detailed assessment of how these low carbon energy policies would affect incomes, employment, and health outcomes across the state. In addition, BEAR incorporate health co-benefits into our CGE model.

**Position Held:** Economist

**Activities Performed:** Prepared data inputs for model calibration. Assisted with spatial incidence analysis to identify effects on local demographic groups, with special reference to low income communities.

#### PUBLICATIONS

"Early Warning Techniques for Local Climate Resilience: Smallholder Rice in Lao PDR" with Sam Heft-Neal and David Roland-Holst (2017). In Leslie Lipper, Nancy McCarthy, David Zilberman, Solomon Asfaw, and Giacomo Branca (Eds.), *Climate Smart Agriculture: Building Resilience to Climate Change* (pp. 105 - 136). New York: Springer.

"Micro Contracting and the Smallholder Poultry Supply Chain in Lao PDR" with David Roland-Holst, and Joachim Otte (2012). In David Zilberman, Joachim Otte, David Roland-Holst, Dirk Pfeiffer (Eds.), *Health and Animal Agriculture in Developing Countries* (pp. 353-370). New York: Springer.

"Regional Trade Opportunities for Asian Agriculture" with Shikha Jha, David Roland-Holst, and Songsak Sriboonchitta (2010). In John Gilbert (Ed.), *New Developments in Computable General Equilibrium Analysis for Trade Policy* (pp. 272-302). London: Emerald.

**Andrew Roger Lee**

[REDACTED] arl@ucsb.edu

**EDUCATION**

<b>University of California, Santa Barbara</b> PhD Sociology	<b>2020-present</b>
<b>University of California, Berkeley</b> Master of Development Practice	<b>2015</b>
<b>University of Michigan, Ann Arbor</b> B.A. Economics and English	<b>2011</b>

**PROFESSIONAL EXPERIENCE**

<b>Berkeley Academic Advising &amp; Research, Berkeley, CA</b> Project Manager	<b>2020-present</b>
<ul style="list-style-type: none"><li>❖ Provide proposal writing, editing, and organizational support in development efforts</li><li>❖ Synthesize information on complex technical topics (e.g. livestock tracing technology, phytosanitary standards, food production supply chains), translate into concise, accessible language</li></ul>	
<b>Public Policy Institute of California, San Francisco, CA</b> Research Assistant II	<b>2017-2020</b>
<ul style="list-style-type: none"><li>❖ Oversaw technical programming efforts on longitudinal study of English Learners in the California public school system</li><li>❖ Produced a variety of graphics on data procedures, research design, and outcomes for Institute projects; drafted technical appendices for external reports</li></ul>	
<b>Acumen LLC, Burlingame, CA</b> and Policy Analyst II	<b>2015-17</b>
<ul style="list-style-type: none"><li>❖ Led SAS programming and reporting efforts on a prostate cancer research project for FDA clients; managed several million observations of Medicare and National Cancer Institute data in SAS and R</li><li>❖ Served as key organizational representative on biweekly conference calls; provided technical updates on research efforts in concise, accessible language and graphics</li></ul>	
<b>United Nations Food and Agriculture Organization, Rome, Italy</b> Consultant	<b>2015</b>
<ul style="list-style-type: none"><li>❖ Established database of 'climate-smart agriculture' academic papers; extracted study design information and empirical findings for meta-analysis</li><li>❖ Wrote code in STATA summarizing longitudinal climate data affecting Vietnamese coffee industry; produced graphics for presentation to national policymakers</li></ul>	

## **EXHIBIT B**

### **BUDGET DETAIL AND PAYMENT PROVISIONS**

#### **1. INVOICING AND PAYMENT**

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor in accordance with the rates specified in Exhibit B, Attachment 1, Cost Sheet.
- B. Invoices shall be submitted in arrears of the service performed. Invoices must be submitted with the Contractor's letterhead information exactly matching the Contractor name on the Standard Agreement 213 and be signed by an authorized representative.
- C. Invoices will include, as applicable:
  - 1) Contract Number
  - 2) Date of Invoice
  - 3) Date of Service
  - 4) Location of Service – Each Building to be billed separately
  - 5) Description of Service(s), applicable rate(s) and total dollar amount
  - 6) Contractor's California Certified Small Business Certification Reference Number
  - 7) Contact phone number for billing questions
- D. Contractor shall send invoices, billings and other correspondence related to Contractor's services to:

California Privacy Protection Agency  
Attention: Vongayi Chitambira  
2101 Arena Blvd.  
Sacramento, CA 95834  
Email: [admin@coppa.ca.gov](mailto:admin@coppa.ca.gov)

Should an invoice be disputed, Contractor will correct any/all disputed items on the invoice and resubmit the invoice as indicated above. Failure to provide and resubmit corrected invoice will result in a delay of payment. Under no circumstances will a credit memo be accepted in lieu of a corrected invoice.

#### **2. BUDGET CONTINGENCY CLAUSE**

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement Amendment to the Contractor to reflect the reduced amount.

- C. This contract is subject to any additional restrictions, limitations or conditions enacted by the Legislature that may affect the provisions, terms or funding of this contract in any manner.

**3. PROMPT PAYMENT CLAUSE**

- A. Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with section 927.

**4. CONTRACTOR OVERPAYMENTS**

- A. If the State determines that an overpayment has been made to the Contractor, the State will seek recovery immediately upon discovery of the overpayment by: (a) calling the Contractor's accounting office to request a refund of the overpayment amount, or (b) offsetting subsequent Contractor payments by the amount of the overpayment if Contractor repayment or credit is not received within thirty (30) days from the date of notice.
- B. If Contractor discovers it has received an overpayment, Contractor must notify the State and refund the overpayment immediately.

**EXHIBIT B, ATTACHMENT 1**

**COST SHEET**

**1. Task 1**

	(A) Name	(B) Company	(C) Classification	(D) Hourly Rate*	(E) Fringe Benefit Rate**	(F) Overhead Rate***	(G) Profit Rate****	(H) Loaded Rate (D+E+F+G)	(I) # of Hours for Task 1	(J) TOTAL COST (H x I)
1	David Roland- Holst	BEAR, LLC	Principal	\$268.80	\$76.80	\$96.00	\$38.40	\$480.00	30	\$ 14,400.00
2	Andrew Lee	BEAR, LLC	Program Manager	\$156.80	\$44.80	\$56.00	\$22.40	\$280.00	27	\$ 7,560.00
3	Samuel Heft- Neal	BEAR, LLC	Senior Economist	\$179.20	\$51.20	\$64.00	\$25.60	\$320.00	23	\$ 7,360.00
4	Drew Behnke	BEAR, LLC	Senior Economist	\$179.20	\$51.20	\$64.00	\$25.60	\$320.00	22	\$ 7,040.00
<b>TRAVEL COSTS*****</b>										\$ 500.00
<b>MATERIALS COSTS*****</b>										\$ No Charge
<b>TASK 1 COST SHEET - TOTAL</b>										<b>\$ 36,860.00</b>

**2. Task 2**

	(A) Name	(B) Company	(C) Classification	(D) Hourly Rate*	(E) Fringe Benefit Rate**	(F) Overhead Rate***	(G) Profit Rate****	(H) Loaded Rate (D+E+F+G)	(I) # of Hours for Task 2	(J) TOTAL COST (H x I)
1	David Roland- Holst	BEAR, LLC	Principal	\$268.80	\$76.80	\$96.00	\$38.40	\$480.00	152	\$ 72,960.00
2	Andrew Lee	BEAR, LLC	Program Manager	\$156.80	\$44.80	\$56.00	\$22.40	\$280.00	136	\$ 38,080.00
3	Samuel Heft- Neal	BEAR, LLC	Senior Economist	\$179.20	\$51.20	\$64.00	\$25.60	\$320.00	116	\$ 37,120.00
4	Drew Behnke	BEAR, LLC	Senior Economist	\$179.20	\$51.20	\$64.00	\$25.60	\$320.00	110	\$ 35,200.00
<b>TRAVEL COSTS*****</b>										\$ 500.00
<b>MATERIALS COSTS*****</b>										\$ No Charge
<b>TASK 2 COST SHEET - TOTAL</b>										<b>\$183,860.00</b>

**3. Total Cost**

Task 1 Total	\$ 36,860.00
Task 2 Total	\$ 183,860.00
<b>Task 1 and Task 2 Total</b>	<b>\$ 220,720.00</b>

**Definitions**

**\*Direct Labor Rate:** Insert the maximum hourly or monthly labor rate (unloaded) by employee job classification/title to be billed during the approved term of the agreement. This is the highest salary or wage rate that is actually paid to the employee before the application of fringe benefits, indirect costs or profit.

**\*\*Fringe Benefit Rate:** Insert the maximum fringe benefit rate to be charged during the approved term of the agreement. Round percentages up to the nearest hundredth (two decimal places). For example, manually enter 20.26% instead of 20.2581%. Most companies will have a standard Fringe Benefit % rate, but for purposes of this contract, they should convert that to a dollar amount appropriate to this contract.

**\*\*\*Overhead Rate:** The indirect cost rates on this form are caps, or the maximum amount allowed to be billed. The Contractor/Recipient/Subcontractor can only bill for actual indirect costs incurred, not to exceed the rates specified in these forms. All indirect costs charged must be reasonable, allocable to the project, and fully supported by backup documentation. DGS reserves the right to request supporting documentation of all indirect costs reimbursed or

charged as match share. Indirect costs must adhere to the Agreement Terms and Conditions, Generally Accepted Accounting Principles (GAAP) and the OMB Circular or Federal Acquisition Regulations applicable to your organization.

**\*\*\*\*Profit Rate:** Contractors and subcontractors can include up to a maximum total of 10% profit, fees or markups on their own actual allowable expenses less any expenses further subcontracted to other entities (i.e., profit, fees and markups are not allowed on subcontractor expenses). For example, if a contractor has \$100,000 in actual allowable costs but has further subcontracted \$20,000 to another entity, then the contractor can only include up to 10% profit on \$80,000 (\$100,000 minus \$20,000).

### **Other Direct Costs**

**\*\*\*\*Travel:** Travel reimbursement will be in accordance with state reimbursement rates as approved by the California Department of Human Resources. More information about Travel Reimbursement can be located at: <http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>. All travel must be pre-approved in writing by the Contract Administrator prior to scheduled trip. Contractor will be compensated for actual incurred travel expenses upon receipt and approval of an itemized invoice.

**\*\*\*\*\*Materials:** Appropriate materials costs will be reimbursed as pre-approved by the DGS Contract Administrator. Contractor will be compensated for actual incurred material expenses upon receipt and approval of an itemized invoice.

### **Cost Evaluation**

Cost will be evaluated based on the cumulative total of all tasks, detailed on each of the individual task cost sheets and summarized on the Summary Cost Sheet.

The cost sheets and rates identified will be used for the resulting contract and shall be binding for the term of the agreement.

## EXHIBIT D

### SPECIAL TERMS AND CONDITIONS

#### **1. STANDARD CONDITIONS OF SERVICE**

- A. Contractor will abide by all State and Federal laws in performance of this contract.
- B. The Contractor shall maintain all license(s) required by law for accomplishing any work required with this agreement. In the event any license(s) expire at any time during the term of this agreement, Contractor agrees to provide to the State a copy of the renewed license(s) within thirty (30) days following the expiration date. In the event the Contractor fails to keep in effect at all times all required license(s), the State may, in addition to any other remedies it may have, terminate this agreement upon occurrence of such event.
- C. The Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- D. If signing this contract as a sole proprietor, Contractor certifies that it is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act (8 U.S.C. § 1601 et seq.).
- E. Pursuant to Public Contract Code section 10295.4, persons or companies identified as the largest tax delinquents by the Franchise Tax Board (FTB) or the California Department of Tax and Fee Administration (CDTFA) are ineligible to enter into any contract with the state for non-IT goods or services. Any contract entered into in violation of section 10295.4 is void and unenforceable.
- F. If contract activities include collection of organic waste, the Contractor must be aware and adhere to Public Resources Code § 42649.1 et. seq. concerning organic waste recycling requirements. Organic waste includes; food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.

2. **EXCISE TAX:** The State of California is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this agreement. California may pay any applicable sales or use tax imposed by another state.

#### **3. RIGHT TO TERMINATE**

- A. The State reserves the right to cancel all or a portion of the service for any reason, subject to thirty (30) days written notice to the Contractor.
- B. This agreement can be immediately terminated for cause. The term "for cause" means that the Contractor fails to meet the terms, conditions, and/or responsibilities of the contract. In this instance, the contract termination shall be effective as of the date indicated on the State's notification to the Contractor.

#### **4. RESOLUTION OF CONTRACT DISPUTES**

- A. In the event of a dispute, Contractor will attempt resolution with the CPPA Contract Administrator with a written explanation of the situation. If no resolution is found,

Contractor shall file a "Notice of Dispute" with the CPPA within ten (10) days of the failed resolution at the following address:

California Privacy Protection Agency  
Attn: CPPA Executive Director  
2101 Arena Boulevard  
Sacramento, CA 95834

- B. CPPA Executive Director or designee shall meet with the Contractor for purposes of resolving the dispute. The decision of the CPPA Executive Director or the designee shall be final. In the event of a dispute, the language contained within this agreement and its attendant Exhibits shall prevail over any other language.
- C. Neither the pendency of a dispute nor its consideration by the CPPA Executive Director will excuse the Contractor from full and timely performance in accordance with the terms of the Agreement.

#### **5. HEALTH and SAFETY PROVISIONS**

- A. Contractor and all subcontractors shall abide by all health and safety mandates issued by federal, state, and local governments and/or public health officers as well as those issued by DGS, and worksite specific mandates. If multiple mandates exist, the Contractor and subcontractors shall abide by the most restrictive mandate. The term "employee", "worker", "state worker" or "state employee" in health and safety mandates includes contractor and subcontractor personnel.
- B. Costs associated with adhering to health and safety mandates are the responsibility of the Contractor. Contractor is responsible for the tracking and compliance of health and safety mandates and may be audited upon request.

#### **6. POTENTIAL SUBCONTRACTORS**

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relationship between FMD and any subcontractors, and no subcontract shall relieve the Contractor of its responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to FMD for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from FMD's obligation to make payments to the Contractor. As a result, FMD shall have no obligation to pay or to enforce the payment of any monies to any subcontractor.

#### **7. INSURANCE REQUIREMENT**

- A. General Provisions Applying to All Policies
  - 1) Coverage Term – Coverage needs to be in force for the complete term of the contract. If insurance expires during the term of the contract, a new certificate must be received by the State at least thirty (30) days prior to the expiration of this insurance. Any new insurance must still comply to the original terms of the contract.
  - 2) Policy Cancellation or Termination & Notice of Non-Renewal – Contractor is responsible to notify the State within 5 business days of any cancellation, non-renewal or material change that affects required insurance coverage. In the event

Contractor fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this Contract upon the occurrence of such event, subject to the provisions of this Contract.

- 3) Deductible – Contractor is responsible for any deductible or self-insured retention contained within their insurance program.
  - 4) Primary Clause – Any required insurance contained in this contract shall be primary, and not excess or contributory, to any other insurance carried by the State.
  - 5) Insurance Carrier Required Rating – All insurance companies must carry a rating acceptable to the Office of Risk and Insurance Management. If the Contractor is self insured for a portion or all of its insurance, review of financial information including a letter of credit may be required.
  - 6) Endorsements – Any required endorsements requested by the State must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
  - 7) Inadequate Insurance – Inadequate or lack of insurance does not negate the contractor's obligations under the contract.
- B. Commercial General Liability – Contractor and any subcontractors shall maintain general liability on an occurrence form with limits not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limits shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. If the aggregate applies "per project/location" it shall so state on the certificate. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Contractor's limit of liability. **The policy must be endorsed to include the State of California, its officers, agents and employees as additional insured, but only with respect to work performed under the contract. The additional insured endorsement shall be provided with the certificate of insurance.**
- C. Automobile Liability – Contractor shall maintain motor vehicle liability with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. **The policy must be endorsed to include the State of California, its officers, agents and employees as additional insured, but only with respect to work performed under the contract. The additional insured endorsement shall be provided with the certificate of insurance.**
- D. Workers Compensation and Employers Liability – Contractor shall maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Contract. Employer's liability limits of \$1,000,000 are required. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the State.**
- E. Errors and Omissions/Professional Liability – Contractor shall maintain Errors and Omissions/Profession liability with limits of not less than \$1,000,000 each incident and \$2,000,000 aggregate covering damages caused by negligent, acts or omissions. The

policy retro date must be shown on a certificate of insurance and must be before the date contract work begins.

- F. Certificate of Insurance - The Contractor shall furnish a Certificate of Insurance. The Certificate of Insurance will provide the above listed liability coverages and the Certificate Holder shall read:

Attn: CSS – 21-96710  
Department of General Services  
Office of Business and Acquisition Services  
707 Third Street, MS 508  
West Sacramento, CA 95605

8. **EVALUATION**: Contractor will be evaluated based on the Contractor's performance, which includes, but is not limited to, work product, adherence to timelines and deadlines, staffing, timely processing of contract task orders, accepting of work, and the level of success in meeting all other contractual agreements.
9. **NEWS RELEASES**: News releases pertaining to award of or work performed as a result of contract may not be made without prior written approval of:

The Public Information Officer  
707 Third Street, MS 101  
West Sacramento, CA 95605  
Phone: (916) 376-5037  
Email: [DGSPublicAffairs@dgs.ca.gov](mailto:DGSPublicAffairs@dgs.ca.gov)