

SUPPLEMENTAL GENERAL CONDITIONS FOR HEALTH INSURANCE

Effective March 17, 2016

Article 1. Intent and Purpose.

Current law: House Bill 282, 2016 Utah Legislative Session. Legislative History: The 2009 Utah Legislature passed House Bill 331 entitled "Health Reform – Health Insurance Coverage in State Contracts" which law became effective July 1, 2009. This bill has been amended by HB20 of the 2010 Utah Legislative Session, HB 128 of the 2011 Utah Legislative Session as well as HB 282 of the 2016 Utah.

These laws require certain state entities, including DFCM, to require a contractor who contracts with the state entity to offer the contractor's employees qualified health insurance coverage as defined in Utah Code Annotated (UCA) 26-40-115, and in accordance with the commercially equivalent benchmark provided by the Department of Health, the CHIP commercial benchmark for FY 2016 and posted on the following URL: <http://www.health.utah.gov/chip/PDF/2016Benchmark.pdf>, in accordance with UCA 26-40-115(2), during the duration of the contract if the contract is over a certain amount, and if the contract is a construction and/or or design contract. The intent of the Articles of these Supplemental General Conditions is to provide the necessary provisions to the General Conditions as a result of such Bills. The purpose of this Supplemental General Conditions for Health Insurance is to comply with UCA 63A-5-205 as well as Utah Code Administrative Rule R23-23 which are both hereby incorporated by reference herein. In case of conflict between UCA 63A-5-205 and Rule R23-23, UCA 63A-5-205 shall control.

Article 2. Applicability of these Supplemental General Conditions.

This Supplemental General Conditions for Health Insurance only applies to those contracts as required by UCA 63A-5-205.

As stated in UCA 63A- 5-205:

- (1) Except as provided in UCA 63A-5-205(4) below, UCA 63A-5- 205(3) applies to all design or construction contracts entered into by the Division or the Board on or after July 1, 2009, and
 - (a) applies to a prime contractor if the prime contract is in the amount of 2,000,000 or greater at the original execution of the contract; and
 - (b) applies to a subcontractor if the subcontract is in the amount of \$1,000,000 or greater at the original execution of the contract.
- (2) UCA 63A-5-205(3) does not apply if:
 - (a) the application of UCA 63A-5-205(3) jeopardizes the receipt of federal funds;
 - (b) the contract is a sole source contract;
 - (c) the contract is an emergency procurement;
 - (d) to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the threshold required by UCA 63A-5-205(3).

(3) A person who intentionally uses change order or contract modifications to circumvent the requirements of UCA 63A-5-205(3) is guilty of an infraction.

Article 3. Definitions.

The following definitions apply to this Supplemental General Conditions for Health Insurance:

3.1 "Contractor" means the person/entity under direct contract with the Division herein. If the direct contract includes a Design Professional, then the Design Professional is a "Contractor" for purposes of this Supplemental General Conditions for Health Insurance.

3.2 "Design Professional" means the Architect or Engineer, its Subconsultants or Subcontractors at any tier, or any of their agents, employees, including those employed directly or indirectly, or other persons or entities for whose acts the Design Professional or its Subconsultants/Subcontractors at any tier may be liable.

3.3 "Employee(s)" means an "employee," "worker" or "operative" as defined in UCA 34A-2-104 who:
(i) works at least 30 hours per calendar week; and
(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

3.4 "Health benefit plan" means the same as that term is defined in UCA 31A-1-301.

3.5 "Qualified health insurance coverage" means the same as that term is defined in UCA 26-40-115.

3.6 "Subcontractor" means the same as that term is defined in Section 63A-5-208.

3.7 "State" means the State of Utah.

3.8 "Director" includes an authorized designee of the Director.

Article 4. Health Insurance Certification.

4.1 A Contractor (including Design Professional) shall demonstrate compliance with UCA 63A-5-205 (6)(a) or (b) at the time of execution of each initial contract described in UCA 63A-5-205(3). The compliance is subject to an audit by DAS, DFCM or the Office of the Legislative Auditor General. A Contractor (including Design Professional) subject to UCA Section 63A-5-205(3) shall demonstrate to the director that the Contractor has and will maintain an offer of qualified health insurance coverage for the Contractor's employees and employees' dependents. Such Certification shall be on the form provided by DFCM.

4.2 If a subcontractor of the contractor is subject to Subsection (3) of UCA 63A-5-205, the contractor shall:

(a) place a requirement in the subcontract that the subcontractor shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(b) certify to the director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.

4.3 The actuarially equivalent determination required for the qualified health insurance coverage is met by the Contractor if the Contractor provides the department or division with a written statement of actuarial equivalency, which is no more than one year old, regarding the contractor's offer of qualified health coverage from an actuary selected by the contractor or the contractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates;

Rule R-23-23. (this will be updated by the Building Board to comply with HB 282).