

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: ^{MP} Aging & Veterans Services

BOARD AGENDA # *B-3

Urgent

Routine

AGENDA DATE June 16, 2009

CEO Concurs with Recommendation YES NO

(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of American Recovery and Reinvestment Act (ARRA) Senior Employment Stimulus contract ES-0809-30 and Senior Nutrition Stimulus Plan contract NS-0809-30 with the California Department of Aging

STAFF RECOMMENDATIONS:

Authorize the Director of the Department of Aging and Veterans Services (Area Agency on Aging) to sign the Senior Employment and Senior Nutrition Stimulus contracts with the California Department of Aging for Fiscal Years 2008-2009 and 2009-2010.

FISCAL IMPACT:

The Stanislaus County Area Agency on Aging will receive a total Federal Stimulus allocation for Senior Nutrition and Senior Employment of \$157,414 for Fiscal Years 2008-2009 and 2009-2010 from the California Department of Aging for programs, services, and program administration: \$111,847 for Congregate and Home-Delivered meals, \$33,142 for senior employment, and \$12,425 for program administrative costs.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2009-401

On motion of Supervisor Chiesa, Seconded by Supervisor Grover

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of American Recovery and Reinvestment Act (ARRA) Senior Employment Stimulus contract ES-0809-30 and Senior Nutrition Stimulus Plan contract NS-0809-30 with the California Department of Aging
Page 2

FISCAL IMPACT: (Continued)

The Area Agency on Aging (AAA) currently maintains contracts approved by the Board of Supervisors with the Howard Training Center to provide Congregate and Home-Delivered meals, and with Alliance WorkNet to provide senior employment. With the Board's approval of this action, appropriations will increase by \$51,814 in Fiscal Year 2008-2009, and \$105,600 in Fiscal Year 2009-2010.

The stimulus funding available for the current Fiscal Year of \$51,814 was approved by the Board of Supervisors and allocated in the Area Agency on Aging's budget with the Board's approval of the Fiscal Year 2008-2009 Third Quarter Financial Report on May 19, 2009. The Department is requesting that the Board approve to carry forward any unencumbered or unexpended appropriations at the Fiscal Year 2008-2009 year-end close on July 31, 2009, when the financials for the County officially close. These appropriations, with the Board's approval, would then be carried forward to Fiscal Year 2009-2010 to provide additional services. Federal Stimulus funding of \$105,600 for Fiscal Year 2009-2010 has already been included in the 2009-2010 Proposed County Budget previously adopted by the Board of Supervisors on June 9, 2009.

DISCUSSION:

In an effort to stimulate our nation's economy during the current recession, the federal government has supplied additional funding through the American Recovery and Reinvestment Act 2009 (ARRA) to provide additional meals to senior citizens and to increase the funding for the Senior Community Service Employment Program (SCSEP).

A total of \$111,847 has been allocated to the Stanislaus County Area Agency on Aging (AAA) to support the Title III-C Senior Nutrition Program. This funding will be utilized by the contracting provider, the Howard Training Center (HTC), to provide additional meals to low-income seniors and to restore other senior nutrition services. The AAA and HTC will look into the possibility of re-opening nutrition centers in Riverbank, Salida, Ceres, Denair, Keys, and Knights Ferry. Additionally, every effort will be made to restore the delivery of Home-Delivered meals to five days a week. It is anticipated that an additional 25,000 meals will be served and / or distributed to seniors in Stanislaus County.

In addition, the ARRA funding of \$33,142 allocated to the AAA in the form of Employment Stimulus funds will be utilized by the existing subcontractor, the Alliance Worknet, to serve additional low-income seniors who have poor employment prospects by placing them in part-time community service assignments, and by assisting them in transitioning into unsubsidized employment. It is expected that this funding will place at least three low-income seniors into subsidized employment during the grant period. The Department will also charge program administration costs of \$12,425 which are allowable expenses under the contract with the California Department of Aging.

Approval of American Recovery and Reinvestment Act (ARRA) Senior Employment Stimulus contract ES-0809-30 and Senior Nutrition Stimulus Plan contract NS-0809-30 with the California Department of Aging
Page 3

POLICY ISSUES:

By approving the stimulus contracts with the California Department of Aging, the Area Agency on Aging will be able to provide additional meals and employment opportunities to low-income seniors of Stanislaus County, consistent with the Board's priority of A healthy community.

STAFFING IMPACT:

There is no additional staffing impact associated with this request as existing staff will administer the contracts.

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
STATE OF CALIFORNIA

Date: June 16, 2009

No. 2009-401

On motion of Supervisor Chiesa Seconded by Supervisor Grover
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

Item # *B-3

THE FOLLOWING RESOLUTION WAS ADOPTED:

**RESOLUTION APPROVING AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) SENIOR
EMPLOYMENT STIMULUS CONTRACT AND SENIOR NUTRITION STIMULUS PLAN CONTRACT
WITH THE DEPARTMENT OF AGING**

BE IT RESOLVED that the Stanislaus County Board of Supervisors does hereby authorize acceptance of the American Recovery and Reinvestment Act (ARRA) Senior Employment Stimulus contract ES-0809-30 and Senior Nutrition Stimulus Plan contract NS-0809-30 from the California Department of Aging for Fiscal Years 2008-2009 and 2009-2010, and authorize the Director of the Department of Aging and Veterans Services (Area Agency on Aging) to sign them.

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk
Stanislaus County Board of Supervisors,
State of California

Christine Ferraro

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213 (Rev 06/03)

AGREEMENT NUMBER

ES-0809-30

REGISTRATION NUMBER

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

STATE AGENCY'S NAME

California Department of Aging

CONTRACTOR'S NAME

STANISLAUS COUNTY, DEPARTMENT OF AGING AND VETERAN SERVICES

2. The term of this Agreement is: April 1, 2009 (or, if applicable, when approved by DGS, Office of Legal Services, whichever is later.)
 June 30, 2010

3. The maximum amount of this Agreement is: **\$ 33,142.00**
 Thirty-three thousand one hundred forty-two and 00/100

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.

Exhibit A – Scope of Work 7 page(s)

Exhibit B – Budget Detail, Payment Provisions, and Closeout 7 page(s)

Exhibit C* – General Terms and Conditions GTC 307

Check mark one item below as Exhibit D:

Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement) 25 page(s)

Exhibit - D* Special Terms and Conditions

Exhibit E – Additional Provisions 7 page(s)

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 www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)
 STANISLAUS COUNTY, DEPARTMENT OF AGING AND VETERAN SERVICES

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

121 DOWNEY AVENUE, SUITE 102 MODESTO CA 95354

STATE OF CALIFORNIA

AGENCY NAME

California Department of Aging

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Rachel de la Cruz, Manager, Contracts and Business Services

ADDRESS

1300 National Drive, Suite 200, Sacramento CA. 95834

California Department of General
 Services Use Only

Exempt per:
 Mello Grunland Older Californians Act

**Scope of Work – Exhibit A
Employment Stimulus**

ARTICLE I. DEFINITIONS

- A. **American Recovery and Reinvestment Act (ARRA)** means the law enacted by Congress and signed into law on February 17, 2009, for the purpose of creating jobs, promoting the nation's economic recovery and assisting those most impacted by the recession. The ARRA makes funds available to the US Department of Labor for use by Senior Community Service Employment Program (SCSEP) to serve additional unemployed, low-income senior citizens.
- B. **Title V Senior Community Service Employment Program (SCSEP)** means a program that serves low-income persons who are 55 years of age and older and who have poor employment prospects by placing them in part-time community service assignments and by assisting them to transition to unsubsidized employment. [Older Americans Act (OAA), 20 CFR Part 641.110].
- C. **Participant** means an individual who is eligible for the Title V SCSEP, is enrolled, and is receiving services for up to 48 months, unless a request for a waiver is made by the Grantee and approved by the U.S. Department of Labor (DOL). [OAA Section 518(a)(3)(B), 20 CFR Part 641.140].
- D. **Participant Position** means an authorized training slot whose unit cost includes administration; participant wage and fringe benefits; and other participant costs. The number of participant slots and the amount of funding available for a given Fiscal Year is based on an equitable distribution ratio determined by the U. S. Census and allocated by the. (DOL) [OAA Section 506(g)(91), OAA Section 507].
- D. **Modified Positions** means the number of authorized training slots adjusted to account for states with a higher minimum wage paid to participants. (Employment Training Administration 5140)
- E. **Unemployed** means an individual who is without a job and who wants and is available for work, including an individual who may have occasional employment that does not result in a constant source of income. [OAA Section 518(a)(8)].
- F. **Low Income** means family income not more than 125 percent of the federal poverty guidelines. [OAA Section 518(a)(3)(A)].
- G. **Eligible Service Population** means unemployed low-income California residents who are 55 years of age or older and who have poor employment prospects. Priority must be given to individuals who are 65 years of age and older or (a) have a disability; (b) have limited English proficiency or low literacy skills; (c) reside in a rural area; (d) are veterans or spouses of veterans as defined in 20 CFR 641.520(a)(2); (e) have low employment prospects; (f) have failed to find employment after utilizing services provided through the One-Stop Delivery System; or (g) are homeless or at risk for homelessness. [OAA Section 518(b)(1)(2)].

**Scope of Work – Exhibit A
Employment Stimulus**

ARTICLE I. DEFINITIONS (Continued)

- H. **Host Agency** means a public agency or private non-profit 501(c)(3) organization that provides a training work site and supervision for a participant position. (20 CFR 641.140)
- I. **Community-Service Employment Training** means placing participants at host agencies that have occupations which are similar to “in demand” private sector jobs. Assignments may be supplemented by general or specialized skills training and a participant must have an Individual Employment Plan (IEP) that details skills to be attained and timelines for achieving the goal. There is no hour limit for a participant’s community service training employment in a 12-month period. [20 CFR 641.140, OAA Section 518(a)(2)].
- J. **On-The-Job-Experience (OJE) Training** means developing a training assignment that provides the participant an opportunity to develop and practice specific skills and/or experience, which are not attainable through the regular community service assignment. (Older Worker Bulletin No. 04-04)
- K. **One-Stop Career Centers (OSCC)** means agencies that are funded by the Workforce Investment Act (WIA) to provide universal access to employment referrals, training, and other job-seeker/employer services. (20 CFR 641.140)
- L. **Core Indicators** means indicators that are subject to goal-setting and corrective action. [20 CFR Part 641.700(a)].
- M. **Additional Indicators** means indicators that are not subject to goal-setting and corrective action. [20 CFR Part 700(a)].
- N. **Performance Measures** means core indicators and additional indicators of performance that measure the success and effectiveness of the SCSEP. (20 CFR 641.710)
- O. **Entry into Unsubsidized Employment** (entered employment) means participants who are employed in the first quarter after the exit quarter. [20 CFR Part 710(a)(2)].
- P. **Number of Eligible Individuals Served** (service level) means the total number of participants served divided by a grantee’s authorized number of positions, after adjusting for minimum wage. [20 CFR Part 641.710(a)(5)].
- Q. **Hours (in the aggregate) of Community Service Employment Training** (community service hours) means the number of hours of community service provided by SCSEP participants. [20 CFR Part 641.710(a)(1)].
- R. **Classroom Training Hours** means the number of hours spent in classroom training by SCSEP participants.

**Scope of Work – Exhibit A
Employment Stimulus**

ARTICLE I. DEFINITIONS (Continued)

- S. **Participant Program Tenure** means participants can be enrolled in the program for up to 48 months. A request to extend this time may be submitted to CDA for participants that are hard to serve.
- T. **Retention In Unsubsidized Employment for Six Months** (employment retention) means full or part-time paid employment in the public or private sector of a participant for six months after the starting date of placement into unsubsidized employment without the use of funds under Title V or any other federal or State employment subsidy program. [20 CFR Part 641.710(a)(3)].
- U. **Limited English Proficiency (LEP)** means individuals who do not speak English as their primary language and who have a limited ability to read, speak, write or understand English. (20 CFR Part 641.140)
- V. **Number of Most-in-Need Individuals Served** (service to-most-in-need) means service to participants who meet any of the following characteristics: are age 75 or older; have a severe disability; are frail; meet the eligibility requirements related to age for, but do not receive benefits under Title II of the Social Security Act; live in an area with persistent unemployment and are individuals with severely limited employment prospects; have limited English proficiency; have low literacy skills; have a disability; reside in a rural area; are veterans; have low employment prospects; have failed to find employment after utilizing services provided under Title I of the Workforce Investment Act of 1998; are homeless or at risk for homelessness. [20 CFR Part 641.710(a)(6)].
- W. **Customer Satisfaction** means satisfaction of the participants, employers, and host agencies with their experience with SCSEP. [20 CFR 641.710(b)(2)].
- X. **Satisfaction Survey** means an instrument that gathers the satisfaction of participants, employers, and their host agencies with their experiences and the services provided. [20 CFR 641.710(b)(2)].
- Y. **Earnings** means the “average earnings” of those participants, who are employed. To calculate “earnings,” use the total earnings in the second and third quarters after the exit quarter, divided by the number of exiters during the period. [20 CFR Part 641.710(a)(4)].
- Z. **Supportive Services** means services, such as transportation, child care, dependent care, housing, and needs related payments that are necessary for an individual to participate in program activities and to retain unsubsidized employment. [OAA Section 518(a)(7)].
- AA. **State Plan** means the 4-year plan submitted to DOL describing SCSEP strategic focuses with an update not less than every 2 years.

**Scope of Work – Exhibit A
Employment Stimulus**

ARTICLE I. DEFINITIONS (Continued)

- BB. SCSEP Performance and Results Quarterly Progress Report System (SPARQ)** means the DOL system used to process and analyze SCSEP data and the system used to view, print, and save SCSEP quarterly progress reports, data quality reports, and management reports. [20 CFR 641.879(e)(f)(h)].
- CC. Web Data Collection System (WDCS)** means the DOL web-based data collection system used to input all SCSEP program and participant information into SPARQ. [OAA Section 503(f)(3)(4)].
- DD. Mathematica (MPR)** means the organization under contract to DOL to create the SCSEP SPARQ and the WDCS and who is responsible for providing on its website the SPARQ user's guide and DOL policy guidance related to system upgrades. [20 CFR 641.879(e)-(i)].
- EE. Charter Oak Group (COG)** means the organization under contract to DOL to create the SCSEP WDCS handbook that provides direction on entering data into the WDCS and providing on its website DOL policy guidance, frequently asked questions, and revisions to the handbook. [20 CFR 641.879(e)-(i)].
- FF. Transfer/Change Utility** means the WDCS procedure used to transfer a participant into SPARQ from a CDA SCSEP to a national SCSEP contractor or vice versa. [20 CFR 641.879(e)-(i)]

ARTICLE II. SCOPE OF WORK

- A.** The Contractor shall perform the following if operating as a direct Title V program; for a Title V contracted program the Contractor shall ensure that the subcontractor shall perform the following:
1. Implement statutory provisions of the Title V SCSEP in accordance with all applicable laws and regulations [OAA, Public Law 109-365 – October, 2004, 20 CFR Part 641 – April 9, 2004, and 29 CFR Part 89; WIA, Public Law 105-220), Regulations section 121(b)(1)(B)(vi), 29 U.S.C. 2841 (b)(1)(B)(vi) and 29 CFR Part 662 Subpart B §§ 662.200 through 662.280 and Parts 660-671; 20 CFR Part 641 Interim Rule; The Jobs for Veterans Act (Public Law 107-288) (2002) (38 U.S.C. 4215); the American Recovery and Reinvestment Act of 2009, PL 111-05, Division A, Title VIII; the Title V SCSEP Manual as issued by the Department, and any other subsequent memos, bulletins, or similar instructions issued during the term of this Agreement by DOL.
 2. The Contractor will use ARRA funds to expand the number of SCSEP participants assigned to community service work, especially in those growth industries emphasized in the ARRA (e.g., health care, child care, education, green jobs, energy efficiency and environmental

**Scope of Work – Exhibit A
Employment Stimulus**

ARTICLE II. SCOPE OF WORK (Continued)

services) and in expanded public service activities that utilize Recovery Act funds.

3. The Contractor will recruit new Host Agencies or expand opportunities at existing Host Agencies, as determined by enrollment needs.
4. The Contractor shall review, approve, and monitor contractor or subcontractor budgets and expenditures and any subsequent amendments and revisions to budgets. Contactor shall, to the extent feasible, ensure that all budgeted funds are expended by the end of each fiscal year. [20 CFR 641.430(f), Title 29 Part 97(95.5)(97.40)].
5. Develop methods of recruitment and selection that will assure the maximum number of eligible individuals the opportunity to participate in the program. [20 CFR 641.515(a)].
6. Provide an orientation to participants that include information on project goals and objectives; community service training assignments; training opportunities; available supportive services; the availability of a free physical examination; participant's rights and responsibilities; and permitted and prohibited political activities. [20 CFR 641.535(a)(1)].
7. Conduct individual assessments of the participants' work history; skills and interests; talents; physical capabilities; aptitudes; occupational preferences; need for supportive services; potential for performing proposed community service assignment duties; and potential for transition to unsubsidized employment. Assessments must be conducted no less frequently than two times during a 12-month period. [20 CFR 641.535(a)(2)].
8. Provide an Individual Employment Plan (IEP) for each participant based on an assessment. IEPs shall be developed in partnership with each participant and will reflect the needs as well as the expressed interests and desires of the participant. IEPs shall be updated as necessary to reflect information gathered during the participants' assessment. IEPs shall contain goals, action steps to achieve goals, and timelines to complete goals. (20 CFR 641.140)
9. Provide or arrange for training for participants specific to their community service assignment or in support of their training needs identified in their IEP. [20 CFR 641.535(a)(5)(6)].
10. Submit all requests for an OJE to the Department for approval prior to exercising the OJE with any participants. (Older Worker Bulletin No. 04-04)

**Scope of Work – Exhibit A
Employment Stimulus**

ARTICLE II. SCOPE OF WORK (Continued)

11. Obtain and record the personal information necessary for a proper determination of eligibility for all participants and maintain documentation supporting their eligibility. The income of each participant shall be recertified once every 12 months. Documentation records shall be maintained in a confidential manner. (20 CFR 641.505)
 12. Cooperate with community, employment, and training agencies, including agencies under the WIA and provided through OSCC, to provide services to low-income older workers. (20 CFR 641.200)
 13. Follow-up with participants placed into unsubsidized employment to determine whether they are still employed and to make certain that participants receive any follow-up services they may need to ensure retention. [20 CFR 641.535(14)(15)].
 14. As mandated partner under the WIA, the Title V SCSEP must have a signed Memorandum of Understanding (MOU) with the Local Workforce Investment Board(s) and the OSCC(s) detailing how services will be provided. [WIA Sections 662.200-300]
 15. The MOU must contain the following components: (1) a description of the functions/services to be performed for One-Stop clients; (2) an explanation of how the costs of these functions/services and One-Stop operations will be funded; (3) a description of the methods to be used for referring clients among the partners, and (4) the duration of the MOU and procedures for amending it. [20 CFR Part 652 et. al]
 16. Maintain an up-to-date Title V SCSEP Manual, Charter Oak Group (COG) Data Collection Handbook, Mathematica (MPR) User's Guide, and related departmental requirements so that all responsible persons have ready access to standards, policies, and procedures. [20 CFR 641.879(e)(f)(h)].
 17. Use the program data collection and reporting system as required in Exhibit E by the Department. [OAA Section 503(f)(3)(4)].
 18. Submit all requests for a Transfer/Change utility transaction in SPARQ to the Department for prior approval. [20 CFR 641.879(h)].
- B. The Contractor shall or if subcontracted the subcontractor shall meet the annual negotiated performance measures established by the U. S. Department of Labor, which include the following:

Core Indicators (20 CFR 641.700)

1. Entered Employment
2. Service Level

**Scope of Work – Exhibit A
Employment Stimulus**

ARTICLE II. SCOPE OF WORK (Continued)

3. Service to Most-in-Need
4. Employment Retention (6 months)
5. Community Service Hours
6. Earnings

Additional Indicators include: [20 CFR 641.700(c)]

1. Employment Retention (1 year)
2. Customer Satisfaction (Employer, Host Agency, Participant)

C. In addition to the conditions above, the Contractor shall perform the following if subcontracting for Title V program services: [Title 29, Part 97(95.5)(97.40)]

1. Ensure all applicable provisions required within this Agreement are included in any subcontract entered into by the Contractor to carry out the terms of this Agreement.
2. Review and approve Program Narratives of the subcontractor.
3. Annually conduct onsite monitoring, evaluate, and document subcontractor performance and compliance with this Agreement.
4. Provide training, support, and technical assistance to the subcontractor as needed and respond in writing to all written requests from subcontractors for guidance, and interpretation of instructions.

**Budget Detail, Payment Provisions, and Closeout - Exhibit B
Employment Stimulus****ARTICLE I. FUNDS****A. Expenditure of Funds**

1. The Contractor shall expend all funds received hereunder in accordance with this Agreement.
2. Any reimbursement for authorized travel and per diem shall be at rates not to exceed those amounts paid by the State in accordance with Department of Personnel Administration's rules and regulations.
 - Travel -
<http://www.dpa.ca.gov/textdocs/freepmls/PML2008019.pdf>
 - Per Diem (meals and incidentals) -
<http://www.dpa.ca.gov/personnel-policies/travel/meals-and-incidentals.htm>
 - Lodging –
<http://www.dpa.ca.gov/personnel-policies/travel/short-term-travel.htm>

This is not to be construed as limiting the Contractor from paying any differences in costs, from funds other than those provided by this Department, between the Department of Personnel Administration rates and any rates the Contractor is obligated to pay under other contractual agreements. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State. (CCR, Title 2 Section 599.615 et seq.)

Contractor agrees to include these requirements in all contracts it enters into with subcontractors/vendors to provide services pursuant to this Agreement.

3. The Department reserves the right to refuse payment to the Contractor or later disallow costs for any expenditure, as determined by the Department not to be in compliance with this Agreement, unrelated or inappropriate to contract activities, or when inadequate supporting documentation is presented, or where prior approval was required but was either not requested or not granted.

B. Accountability for Funds

The Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from those for any other funds administered by the Contractor, and shall be maintained in accordance with Generally Accepted Accounting Principles and Procedures and the Office of Management and Budget's Cost Principles.

**Budget Detail, Payment Provisions, and Closeout - Exhibit B
Employment Stimulus**

C. Unexpended Funds

Upon termination, cancellation, or expiration of this Agreement, or dissolution of the entity, the Contractor shall return to the State immediately upon written demand, any funds provided under this Agreement, which are not payable for goods or services delivered prior to the termination, cancellation, or expiration of this Agreement, or the dissolution of the entity.

D. Availability of Funds

1. It is understood between the parties that this Agreement may have been written before ascertaining the availability of appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if this Agreement were executed after that determination was made.

2. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government and are appropriated in the Budget Act of the appropriate fiscal years for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions imposed by the Congress or the Legislature that may affect the provisions, terms, or funding of this Agreement in any manner.

3. Limitation of State Liability

Payment for performance by the Contractor shall be dependent upon the availability of future appropriations by the Legislature or Congress for the purposes of this contract and approval of an itemized Employment Stimulus Budget (CDA 35s). No legal liability on the part of the State for any payment may arise under this contract until funds are made available, the itemized budget is received and approved by the State, and the Contractor has received an executed contract.

4. Funding Reduction(s)

a. If funding for any State fiscal year is reduced or deleted by the Department of Finance, Legislature or Congress, for the purposes of this program, the State shall have the option to either:

- Terminate the contract pursuant to Exhibit D, Article XII, B.
- Offer a contract amendment to the Contractor to reflect the reduced funding for this contract.

b. In the event that funds for the program are reduced by Congress or the Legislature, it shall be mutually understood by both parties that (1) the State reserves the right to determine which contracts, if any, under this program shall be reduced and (2) some contracts may be reduced by a greater amount than others, and (3) that the State shall determine at its sole discretion the amount that any or all of the contracts shall be reduced for the fiscal year.

**Budget Detail, Payment Provisions, and Closeout - Exhibit B
Employment Stimulus**

ARTICLE I. FUNDS (Continued)

E. Interest Earned

Nonprofit entities shall maintain advances of federal funds in interest bearing accounts, unless (1), (2), or (3) apply.

1. The recipient receives less than \$120,000 in federal awards per year.
2. The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on federal cash balances.
3. The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.

For nonprofit entities interest earned in excess of \$250 on federal advances deposited in interest bearing accounts shall be remitted annually to the Department.

F. Program Income

1. Program income is income earned by the contractor during the contract period that is directly generated by an allowable activity supported by contract funds or earned as a result of the award of contract funds.
2. Program income includes income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced with contract funds.
3. Costs of generating program income may be deducted from gross income to determine program income earned provided these costs are not charged to contract funds.
4. Program income must be added to contract funds and matching contributions, and used for allowable costs of the program.
5. Contractors that continue to receive contract funds may use unexpended program income in the subsequent contract period.
6. Contractors that do not continue to receive contract funds in the subsequent period must remit unexpended program income earned to the Department after the end of the contract period.

G. Matching Contributions

1. There is a 10% match requirement for the Employment Stimulus. Match means the value of third-party in-kind contributions and that portion of program and administrative costs funded (cash or in-kind) by the contractor, subcontractor, or other local resources.

**Budget Detail, Payment Provisions, and Closeout - Exhibit B
Employment Stimulus**

ARTICLE I. FUNDS (Continued)

2. Third party in-kind contributions are property or services provided which benefit a contract-supported project or program and which are contributed by non-federal third parties without charge to the contractor or subcontractor.
3. Third party in-kind contributions count as matching only where the payments would be otherwise allowable costs if the party receiving the contributions were to pay for the costs.
4. Third party in-kind contributions must be necessary for the proper and efficient accomplishment of Area Plan administration and program activities.
5. Costs incurred by the contractor or subcontractor must be verifiable from the records of the contractor and subcontractor.
6. Costs must be allowable as outlined in Office of Management and Budget (OMB) circulars and may be cash or in-kind contributions.
7. Other local resources include cash donations (not including program income) and cash generated from fundraising activities.
8. The Contractor may not require a subcontractor to provide matching contributions as a condition of funding.
9. On-the-Job Experience (OJE) expenditures applied to wages and fringe benefits, other program costs, or administration shall be identifiable in the Contractor's records.

ARTICLE II. BUDGET AND BUDGET REVISIONS

- A. The Contractor shall be compensated for expenses only as itemized in the approved Employment Stimulus Budget (CDA 35s) and shall not be entitled to payment for these expenses until the CDA 35s is reviewed and approved by the Department. The approved Employment Stimulus Budget is hereby incorporated by reference into this Agreement as a part of Exhibit B.
- B. The Contractor is limited to eight percent (8%) of the federal allocation for AAA Administration.
- C. Administrative costs for a Subcontractor are not limited to 8% of the federal allocation and should be reported as project administration in the Employment Stimulus budget.

**Budget Detail, Payment Provisions, and Closeout - Exhibit B
Employment Stimulus**

ARTICLE II. BUDGET AND BUDGET REVISIONS (Continued)

- D. The Contractor shall spend not less than 79% of the total federal allocation for Participant Wages and Fringe Benefits.
- E. The Contractor is not required to budget OJE training costs separate from other costs; costs shall be tracked during the contract period in the Contractor's records.
- F. The Contractor may charge expenditures associated with participant assessment, training, job development, counseling functions, etc. to the Program Other category in the Employment Stimulus Budget.
- G. Any matching contributions generated as a result of this contract should be reported on the CDA 35s as Matching Contributions.
- H. Each Title V SCSEP contractor is required to submit a budget revision if spending exceeds or is below 10 percent of each cost category. Budget revisions may be submitted as necessary, but no later than May 1, 2010. The Department will not accept any budget revision after the contract period has expired.

ARTICLE III. PAYMENT

- A. Upon execution of this agreement, CDA will make quarterly advances of Employment Stimulus funds to the Contractor, during the first month of each quarter. The Contractor shall prepare and submit to the AAA-Based Team, in electronic format, an Employment Stimulus Quarterly Financial Status Report and Request for Funds (CDA 29s). These requests must be submitted by the 15th of the month prior to the beginning of the quarter, unless otherwise specified by CDA.
- B. Not later than 5 days after the end of each calendar quarter, the Contractor shall submit an Employment Stimulus Quarterly Financial Status Report and Request for Funds (CDA 29s) reporting expenditures for the prior quarter.
- C. The Department shall pay the Contractor a total not to exceed the amount shown on the Budget Display, which is hereby incorporated by reference.
- D. The Contractor shall meet the following standards for its financial management systems, as stipulated in 29 CFR Section 97.20 (governmental) or 45 CFR, Section 74.21 (non-profits):
 - 1. Financial Reporting
 - 2. Accounting Records
 - 3. Internal Control

**Budget Detail, Payment Provisions, and Closeout - Exhibit B
Employment Stimulus**

4. Budgetary Control

ARTICLE III. PAYMENT (Continued)

5. Allowable Costs
6. Source Documentation
7. Cash Management

ARTICLE IV. CLOSEOUT

The Employment Stimulus Financial Closeout Report (CDA 90s) shall be submitted to the AAA-Based Team, within 30 calendar days following the end of the contract period or within 30 days following termination prior to the end of the contract period, unless otherwise specified by the Department.

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS

A. Definitions

1. The term "Agreement" or "Contract" shall mean the Standard Agreement (Std. 213), exhibits A, B, C, D, and E, and an approved Budget and Budget Narrative, which is hereby incorporated by reference, amendments, and any other documents incorporated by reference, unless otherwise provided for in this Article.
2. "State" and "Department," mean the State of California and the California Department of Aging (CDA) interchangeably.
3. "Contractor" means the Area Agency on Aging to which funds are awarded under this Agreement and which is accountable to the State and/or federal government for use of these funds and is responsible for executing its provisions and services.
4. "Subcontractor" means the legal entity that receives funds from the Contractor under this Agreement.
5. "Reimbursable item" also means "allowable cost" and "compensable item."
6. "CFR" means Code of Federal Regulations. "CCR" means California Code of Regulations. "GC" means Government Code. "W & I" means Welfare and Institutions Code. "USC" means United States Code. "PCC" means the Public Contract Code.
7. "Program income" means revenue generated by the Contractor or subcontractor from contract-supported activities. Program income is:
 - a. Voluntary contributions received from a participant or responsible party as a result of the service.
 - b. Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement.
 - c. Royalties received on patents and copyrights from contract-supported activities.
 - d. Proceeds from the sale of items fabricated under a contract agreement.

B. Resolution of Language Conflicts

In the event of any inconsistency between the articles, attachments, or provisions which constitute this contract, the following order of precedence shall apply:

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS (Continued)

1. The terms and conditions of this American Recovery and Reinvestment Act (ARRA) of 2009 Award and other requirements have the following order of precedence if there is any conflict in what they require: (1) the ARRA; (2) other applicable Federal statutes and their implementing regulations; (3) M-09-10; and (4) terms and conditions of ARRA award.
2. Standard Agreement (STD 213), all Exhibits and any amendments thereto.
3. All other contract policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements apply unless they conflict or are superseded by the terms and conditions implementing the ARRA requirements. Recipients are responsible for contacting CDA for any needed clarifications.
4. Any other documents incorporated herein by reference.
5. Program memos and other guidance issued by the Department.

ARTICLE II. ASSURANCES

A. Law, Policy and Procedure, Licenses, and Certificates

The Contractor agrees to administer this Agreement and require any subcontractors to administer their subcontracts in accordance with this Agreement, and with all applicable local, State, and federal laws and regulations including, but not limited to, discrimination, wages and hours of employment, occupational safety, and to fire, safety, health, and sanitation regulations, directives, guidelines, and/or manuals related to this Agreement and resolve all issues using good administrative practices and sound judgment. The Contractor and its subcontractors shall keep in effect all licenses, permits, notices, and certificates that are required by law.

- B.** The Contractor shall require language in all subcontracts to require all subcontractors to comply with all applicable State and federal laws.

C. Nondiscrimination

The Contractor shall comply with all federal statutes relating to nondiscrimination. These include those statutes and laws contained in the Contractor Certification Clauses (CCC 307) which is hereby incorporated by reference. In addition, Contractor shall comply with the following:

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE II. ASSURANCES (Continued)

1. Equal Access to Federally-Funded Benefits, Programs and Activities (Title VI of the Civil Rights Act of 1964.)

Contractor shall ensure compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d; 45 C.F.R. Part 80), which prohibits recipients of federal financial assistance from discriminating against persons based on race, color, religion, or national origin.

2. Equal Access to State-Funded Benefits, Programs and Activities

Contractor shall, unless exempted, ensure compliance with the requirements of Government Code sections 11135-11139.5, and Section 98000 et seq. of Title 22 of the California Code of Regulations, which prohibit recipients of state financial assistance from discriminating against persons based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. (Title 22 CCR 98323) (Chapter 182, Stats. 2006)

3. Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. Sections 12101 et seq.).
4. Contractor agrees to include these requirements in all contracts it enters into with subcontractors to provide services pursuant to this Agreement.

D. Standards of Work

The Contractor agrees that the performance of work and services pursuant to the requirements of this Agreement shall conform to accepted professional standards.

E. Conflict of Interest

1. The Contractor shall prevent employees, consultants, or members of governing bodies from using their positions for purposes including, but not limited to, the selection of subcontractors, that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as family, business, or other ties. In the event that the State determines that a conflict of interest exists, funds may be disallowed by the State and such conflict may constitute grounds for termination of the Agreement.
2. This provision shall not be construed to prohibit employment of persons with whom the Contractor's officers, agents, or employees have family,

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE II. ASSURANCES (Continued)

business, or other ties, so long as the employment of such persons does not result in a conflict of interest (real or apparent) or increased costs over those associated with the employment of any other equally qualified applicant, and such persons have successfully competed for employment with the other applicants on a merit basis.

F. Covenant Against Contingent Fees

1. The Contractor warrants that no person or selling agency has been employed or retained to solicit this Agreement. There has been no agreement to make commission payments in order to obtain this Agreement.
2. For breach or violation of this warranty, the State shall have the right to terminate this Agreement without liability or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingency fee.

G. Payroll Taxes and Deductions

The Contractor shall promptly forward payroll taxes, insurances, and contributions, including State Disability Insurance, Unemployment Insurance, Old Age Survivors Disability Insurance, and federal and State income taxes withheld, to designated governmental agencies.

H. Facility Construction or Repair

Funds from this Agreement are not allowed to be used for facility construction or repair.

I. Contracts in Excess of \$100,000

If all funding provided herein exceeds \$100,000, the Contractor shall comply with all applicable orders or requirements issued under the following laws:

1. Clean Air Act, as amended (42 USC 1857).
2. Clean Water Act, as amended (33 USC 1368).
3. Federal Water Pollution Control Act, as amended (33 USC 1251, et seq.).
4. Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738).

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE II. ASSURANCES (Continued)

5. Public Contract Code Section 10295.3.

J. Debarment, Suspension, and Other Responsibility Matters

1. The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors:
 - a. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d. Have not within a three-year period preceding this Agreement had one or more public transactions (federal, State, or local) terminated for cause or default.
 - e. Contractor shall report immediately to the Department in writing any incidents of alleged fraud and/or abuse by either Contractor or Contractor's subcontractor. Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by the Department.
2. The Contractor agrees to timely execute any and all amendments to this Agreement or other required documentation relating to their subcontractors debarment/suspension status.

K. Agreement Authorization

1. If a public entity, the Contractor shall submit to the Department a copy of the resolution, order, or motion referencing this Agreement number authorizing execution of this Agreement. If a private nonprofit entity, the Contractor shall submit to the Department an authorization by the board

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE II. ASSURANCES (Continued)

of directors to execute this Agreement, referencing this Agreement number.

2. These documents must also identify the action taken.
3. Documentation in the form of a resolution, order, or motion by the Governing Board of the Area Agency on Aging is required for the original and each subsequent amendment to this Agreement. This requirement may also be met by a single resolution from the Governing Board of the Contractor authorizing the Area Agency on Aging Director or designee to execute the original and all subsequent amendments to this Agreement.

L. Contractor's Staff

1. The Contractor shall maintain adequate staff to meet the contractor's obligations under this Agreement.
2. This staff shall be available to the State for training and meetings which the State may find necessary from time to time.

M. Corporate Status

1. The Contractor shall be a public or private nonprofit entity or Joint Powers Agreement (JPA). If a private nonprofit corporation or JPA, the Contractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
2. The Contractor shall ensure that any subcontractors providing services under this Agreement shall be of sound financial status. Any private, subcontracting corporation or JPA shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
3. Failure to maintain good standing by the contracting corporation or JPA shall result in suspension or termination of this Agreement with the Department until satisfactory status is restored. Failure to maintain good standing by a subcontracting corporation or JPA shall result in suspension or termination of the subcontract by the Contractor until satisfactory status is restored.

N. Lobbying Certification

The Contractor, by signing this Agreement, hereby certifies to the best of his or her knowledge and belief, that:

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE II. ASSURANCES (Continued)

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subgrants, and contracts under grants, loans, and cooperative agreements which exceed \$100,000) and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by 31 USC 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ARTICLE III. AGREEMENT

A copy of this Agreement is on file and available for inspection at the California Department of Aging, 1300 National Drive, Suite 200, Sacramento, CA 95834.

ARTICLE IV. COMMENCEMENT OF WORK

Should the Contractor or subcontractor begin work in advance of receiving notice that this Agreement is approved, that work may be considered as having been performed at risk as a mere volunteer and may not be reimbursed or compensated.

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE V. SUBCONTRACTS

- A. The Contractor shall satisfy, settle, and resolve all administrative, programmatic, and fiscal aspects of the program(s), including issues that arise out of any subcontracts, and shall not delegate or contract these responsibilities to any other entity. This includes, but is not limited to, disputes, claims, protests of award, or other manners of a contractual nature.
- B. In the event any subcontractor is utilized by the Contractor for any portion of this Agreement, the Contractor shall retain the prime responsibility for all the terms and conditions set forth, including but not limited to, the responsibility for preserving the State's copyrights and rights in data in accordance with Article XIX, of this exhibit, for handling property in accordance with Article VII of this exhibit, and ensuring the keeping of, access to, availability, and retention of records of subcontractors in accordance with Article VI of this exhibit.
- C. Funds for this Agreement shall not be obligated in subcontracts for services beyond the ending date of this Agreement, unless all funding under this Agreement is appropriated without regard for fiscal year, and the Department has agreed in writing to permit the specific expenditure for a specified period of time.
- D. The Contractor shall have no authority to contract for, or on behalf of, or incur obligations on behalf of the State.
- E. Copies of subcontracts, Memorandums and/or Letters of Understanding shall be on file with the Contractor and shall be made available for review at the request of the Department.
- F. The Contractor shall monitor the insurance requirements of its subcontractors in accordance with Article XI, Section E of this exhibit.
- G. The Contractor shall require all its subcontractors to indemnify, defend, and save harmless the Contractor, its officers, agents, and employees from any and all claims and losses accruing to or resulting from any subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with any activities performed for which funds from this Agreement were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the subcontractor in the performance of this Agreement.
- H. The Contractor shall ensure that the subcontractor will complete all reporting and expenditure documents requested by the Department. These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by the Department.

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE V. SUBCONTRACTS (Continued)

- I. The Contractor shall require the subcontractor to maintain adequate staff to meet the subcontractor's Agreement with the Contractor. This staff shall be available to the State for training and meetings which the State may find necessary from time to time.
- J. If a private nonprofit corporation, the subcontractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.

ARTICLE VI. RECORDS

- A. The Contractor shall maintain complete records (which shall include, but not be limited to, accounting records, contracts, agreements, reconciliation of the "Financial Closeout Report" to the audited financial statements, a summary worksheet of results from the audit resolutions performed for all subcontractors with supporting documentation, letters of agreement, insurance documentation in accordance with this Article, Memorandums and/or Letters of Understanding, patient or client records, and electronic files) of its activities and expenditures hereunder in a form satisfactory to the State and shall make all records pertaining to this Agreement available for inspection and audit by the State or its duly authorized agents, at any time during normal business hours. All such records must be maintained and made available by the Contractor; (a) until an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by the Department's Audit Branch, (b) for such longer period, if any, as is required by applicable statute, by any other clause of this Agreement, or by Sections B, and C of this Article, and (c) for such longer period as the Department deems necessary.
- B. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for the same periods as specified in Section A above. The Contractor shall ensure that any resource directories and all client records remain the property of the Department upon termination of this Agreement, and are returned to the Department or transferred to another Contractor as instructed by the Department.
- C. In the event of any litigation, claim, negotiation, audit exception, or other action involving the records, all records relative to such action shall be maintained and made available until every action has been cleared to the satisfaction of the State and so stated in writing to the Contractor.
- D. Adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures reimbursed by the State under this Agreement. If the allowability of expenditures cannot be determined because records or documentation of the Contractor are nonexistent or inadequate according to Generally Accepted Accounting Principles and Procedures, the

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE VI. RECORDS (Continued)

expenditures will be questioned in the audit and may be disallowed by the State during the audit resolution process.

- E. After the authorized period has expired, confidential records shall be destroyed by shredding and disposed of in a manner that will maintain confidentiality.

ARTICLE VII. PROPERTY

- A. Unless otherwise provided for in this Article, property refers to all assets, capitalized or noncapitalized, used in operation of this Agreement
 - 1. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, and intangibles, etc.
 - 2. Property does not include consumable office supplies such as paper, pencils, typing ribbons, file folders, etc.
- B. Property meeting all of the following criteria are subject to the capitalization requirements. Such property must:
 - 1. Have a normal useful life of at least 1 year;
 - 2. Have a unit acquisition cost of at least \$5000 (e.g., four identical assets which cost \$3000 each, for a \$12,000 total would not meet this capitalization requirement); and
 - 3. Be used to conduct business under this Agreement.
- C. Noncapitalized property are those items which do not meet all three requirements in this Article, Section B above.
- D. Additions, improvements, and betterments to assets meeting all of the conditions in Section B above must be capitalized. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments enhance the condition of an asset (e.g., extend life, increase service capacity, and lower operating costs). Examples of assets that might be improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.
- E. Intangibles are property which lack physical substance but give valuable rights to the owner and can be capitalized or noncapitalized. Examples of intangible property include patents, copyrights, leases, and computer software. By contrast, hardware consists of tangible equipment (e.g., computer printer, terminal, etc.).

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE VII. PROPERTY (Continued)

Costs include all amounts incurred to acquire and to ready the intangible asset for its intended use. Typical intangible property costs include the purchase price, legal fees, and other costs incurred to obtain title to the asset.

- F. The Contractor shall record the following information when property is acquired:
1. Date acquired;
 2. Property description (include model number);
 3. Property identification number;
 4. Serial number;
 5. Cost or other basis of valuation;
 6. Fund source; and
 7. Rate of depreciation (or depreciation schedule), if applicable.

The Contractor shall keep track of property purchased with Contract funds, whether capitalized or not. The Contractor shall maintain and submit to the Department annually with the Closeout, a current inventory of property furnished or purchased by either the Contractor or the subcontractor with funds awarded under the terms of this Agreement or any predecessor agreement for the same purpose. The Contractor shall use the Report of Project Property Furnished/Purchased with Agreement Funds (CDA 32) unless otherwise directed by the Department.

- G. Prior to disposal of any property purchased by the Contractor or the subcontractor with funds from this Agreement, the Contractor must obtain approval from the Department regardless of the acquisition value. Disposition, which includes sale, trade-in, discarding, or transfer to another agency may not occur until approval is received from the Department. The Contractor shall use the Request to Dispose of Property (CDA 248) to dispose of property.
- H. The Contractor shall immediately investigate and within five (5) days fully document the loss, destruction, or theft of such property.
- I. The State reserves title to all State-purchased or financed property not fully consumed in the performance of this Agreement, unless otherwise required by federal law or regulations or as otherwise agreed by the parties.
- J. Contractor shall exercise due care in the use, maintenance, protection, and preservation of such property during the period of the project, and shall assume responsibility for replacement or repair of such property during the period of the

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE VII. PROPERTY (Continued)

project, until the Contractor has complied with all written instructions from the Department regarding the final disposition of the property.

- K. In the event of the Contractor's dissolution or upon termination of this Agreement, the Contractor shall provide a final property inventory to the State. The State reserves the right to require the Contractor to transfer such property to another entity, or to the State.
- L. To exercise the above right, no later than 120 days after termination of the Agreement or notification of the Contractor's dissolution the State will issue specific written disposition instructions to the Contractor.
- M. The Contractor shall use the property for the purpose for which it was intended under the Agreement. When no longer needed for that use, the Contractor shall use it, if needed, and with written approval of the State for other purposes in this order:
 - 1. Another Department program providing the same or similar service; or
 - 2. Another Department-funded program.
- N. The Contractor may share use of the property and equipment or allow use by other programs, upon written approval of the Department. As a condition of the approval, the Department may require reimbursement under this Agreement for its use.
- O. The Contractor or subcontractor shall not use equipment or supplies acquired under this Agreement with federal and/or State monies for personal gain or to usurp the competitive advantage of a privately-owned business entity.
- P. If purchase of equipment is a reimbursable item, the equipment to be purchased will be specified in the budget.
- Q. The Contractor shall include the provisions contained in this Article in all its subcontracts awarded under this Agreement.

ARTICLE VIII. ACCESS

The Contractor shall provide access to the federal or State agency, Bureau of State Audits, the Controller General of the United States, or any of their duly authorized federal or State representatives to any books, documents, papers, records, and electronic files of the Contractor or subcontractor which are directly pertinent to this specific Agreement for the purpose of audit, examination, excerpts, and transcriptions. The Contractor shall include this requirement in its subcontracts.

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE IX. MONITORING, ASSESSMENT, AND EVALUATION

- A. Authorized State representatives shall have the right to monitor, assess, and evaluate the Contractor's performance pursuant to this Agreement. Said monitoring, assessment, and evaluation may include, but is not limited to, audits, inspections of project premises, inspection of food preparation sites, and interviews of project staff and participants.

ARTICLE IX. MONITORING, ASSESSMENT, AND EVALUATION (Continued)

- B. The Contractor shall cooperate with the State in the monitoring, assessment, and evaluation processes, which include making any Administrative program and fiscal staff available during any scheduled process.

ARTICLE X. AUDITS

- A. The Contractor will arrange for an audit to be performed in accordance with requirements of the Single Audit Act of 1984, Public Law 98-502; the Single Audit Act Amendments of 1996, Public Law 104-156; and Office of Management and Budget (OMB) Circular A-133. A copy shall be submitted to the:

California Department of Aging
Attn: Audit Branch
1300 National Drive, Suite 200
Sacramento, California 95834

The copy shall be submitted within the earlier of 30 days after receipt of the auditor's report or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency.

For purposes of reporting on the Schedule Expenditures of Federal Awards in the audit, the federal grantor is the U.S. Department of Labor. The Catalog of Federal Domestic Assistance Number is 17.235. The pass-through grantor is CDA.

Contractor will ensure that State-funded expenditures shall be separated out and specifically displayed along with the related federal expenditures in the single audit report's "Schedule of Expenditures of Federal Awards" under the Catalog of Federal Domestic Assistance (CFDA) number 17.235.

- B. The Contractor shall perform a reconciliation of the "Financial Closeout Report" to the audited financial statements. The reconciliation shall be maintained and made available for CDA review.
- C. The Contractor shall have the responsibility of resolving its contract with the subcontractor to determine whether funds provided under this Agreement are

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE X AUDITS (Continued)

expended in accordance with applicable laws, regulations, and provisions of contracts or agreements.

Contract resolution includes:

1. Ensuring that a subcontractor expending \$500,000 or more in aggregate in Federal Awards during the subcontractor's fiscal year has met the audit requirements of OMB Circular A-133 as summarized in D;
 2. Issuing a management decision on audit findings within six months after receipt of the subcontractor's single audit report and ensuring that the subcontractor takes appropriate and timely corrective action;
 3. Reconciling expenditures reported to CDA to the amounts identified in the single audit or other type of audit if the subcontractor is not subject to the single audit requirements. For a subcontractor not required to have a single audit and did not obtain another type of audit, the reconciliation of expenditures reported to CDA must be accomplished through performing alternative procedures (e.g., expense verification reviews/monitoring assessments);
 4. When alternative procedures are used, the Contractor shall perform financial management system testing per existing federal requirements (45 CFR, Subpart C, Part 92.20 and 45 CFR, Part 74.21) which state in part that financial reporting must be accurate, current, and complete; and, accounting records must adequately identify the source and application of funds and must be supported by source documentation. The Contractor shall document system and expense testing to show an acceptable level of reliability, including a review of actual source documents; and
 5. Determining whether the results of the reconciliations performed necessitate adjustment of the Contractor's own records.
- D. The contractor shall ensure that subcontractor single audit reports meet OMB Circular A-133 requirements:
1. Performed timely – not less frequently than annually and a report submitted timely. The audit is required to be submitted within 30 days after receipt of the auditor's report or nine months after the end of the audit period, whichever occurs first.
 2. Properly procured – use procurement standards provided for in OMB Circular A-133 and provide maximum opportunities to small and minority audit firms.

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE X AUDITS (Continued)

3. Performed in accordance with Generally Accepted Government Auditing Standards – shall be performed by an independent auditor and be organization-wide.
 4. All inclusive – includes an opinion (or disclaimer of opinion) of the financial statements; a report on internal control related to the financial statements and major program; an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements; and the schedule of findings and questioned costs.
 5. Performed in accordance with provisions applicable to this program as identified in OMB Circular A-133 Compliance Supplement.
- E. Requirements identified in D shall be included in contracts/agreements with the subcontractor. Further, subcontractor shall be required to include in its contract with the independent auditor that the auditor will comply with all applicable audit requirements, the Department shall have access to all audit reports and supporting work papers, and the Department has the option to perform additional work, as needed.
- F. The Contractor shall prepare a summary worksheet of results from the contract resolutions performed of all subcontractors. The summary worksheet shall include, but not be limited to, contract amount; amount resolved; variances; whether an audit was relied upon or the Contractor performed an independent expense verification review of the subcontractor in making the determination; whether audit findings were issued; and, if applicable, issuance date of the management letter; and any communication or follow-up performed to resolve the findings.
- G. Unless prohibited by law, the cost of audits made in accordance with provisions of the Single Audit Act Amendments of 1996, are allowable charges to Federal Awards. The costs may be considered a direct cost, or an allocated indirect cost, as determined in accordance with provisions of applicable OMB cost principle circulars.
- H. Contractor may not charge to Federal Awards the cost of any audit under the Single Audit Act Amendments of 1996 not conducted in accordance with the Act. Contractor may not charge to Federal Awards the cost of auditing a non-federal entity which has Federal Awards expended of less than \$500,000 per year, and is thereby exempted under OMB Circular A-133, Subsection __.200(d). However, this does not prohibit the Contractor from charging Federal Awards for the cost of conducting a limited-scope audit to monitor its subcontractor to address compliance requirements provided the subcontractor is not required to obtain a single audit. These costs must be charged as an Administration expense.

**Special Terms and Conditions - Exhibit D
Employment Stimulus**

ARTICLE X AUDITS (Continued)

- I. The Contractor shall cooperate with and participate in any further audits which may be required by the State.

ARTICLE XI. INSURANCE

- A. Prior to commencement of any work under this Agreement, the Contractor shall provide for the term of this Agreement, the following insurance:

1. General liability of not less than \$1,000,000 per occurrence for bodily injury and property damage combined. Higher limits may be required by the Department in cases of higher than usual risks.
2. Automobile liability including non-owned auto liability, of not less than \$1,000,000 for volunteers and paid employees providing services supported by this Agreement.
3. If applicable, contractors and subcontractors shall comply with the Public Utilities Commission (PUC) General Order No. 115-F which requires higher levels of insurance for charter-party carriers of passengers and is based on seating capacity as follows:

\$750,000 if seating capacity is under 8
\$1,500,000 if seating capacity is 8 – 15
\$5,000,000 if seating capacity is over 15

unless otherwise amended by future regulation.

- B. The insurance will be obtained from an insurance company acceptable to the Department of General Services, Office of Risk and Insurance Management, or be provided through partial or total self-insurance acceptable to the Department of General Services.
- C. Evidence of insurance shall be in a form and content acceptable to the Department of General Services, Office of Risk and Insurance Management. Insurance obtained through commercial carriers shall meet the following requirements:
 1. The Certificate of Insurance shall provide that the insurer will not cancel the insured's coverage without thirty (30) days prior written notice to the State, or ten (10) days written notice if the reason for cancellation is for non-payment of insurance premium.
 2. The Certificate of Insurance shall provide the statement: "The Department of Aging, State of California, its officers, agents, employees,

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ARTICLE XI. INSURANCE (Continued)

and servants are included as additional insureds, with respect to work performed for the State of California under this Agreement." Professional liability coverage is exempt from this requirement.

3. The Department shall be named the certificate holder and the address must be listed on the certificate.
- D. The insurance provided herein shall be in effect at all times during the term of this Agreement. In the event the insurance coverage expires during the term of this Agreement, the Contractor agrees to provide the Department, at least thirty (30) days prior to the expiration date, a new certificate of insurance evidencing insurance coverage as provided herein for a period not less than the remaining Agreement term or for a period not less than one (1) year. In the event the Contractor fails to keep in effect at all times said insurance coverage, the Department may, in addition to any other remedies it may have, terminate this Agreement.
- E. The Contractor shall require its subcontractors under this Agreement, other than units of local government which are similarly self-insured, to maintain adequate insurance coverage for general liability, worker's compensation liabilities, and if appropriate, auto liability including non-owned auto and professional liability, and further, the Contractor shall require all of its subcontractors to hold the Contractor harmless. The subcontractor's Certificate of Insurance shall also name the Contractor, not the State, as the certificate holder and additional insured. The Contractor shall maintain certificates of insurance for all its subcontractors.
- F. A copy of each appropriate Certificate of Insurance referencing this Agreement Number, or letter of self-insurance, shall be submitted to the Department with this Agreement.
- G. The Contractor shall be insured against liability for Worker's Compensation or undertake self-insurance in accordance with the provisions of the Labor Code and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement (Labor Code Section 3700).

ARTICLE XII. TERMINATION

A. Termination Without Cause

The Department may terminate performance of work under this Agreement without cause in whole or in part, if the Department determines that a termination is in the State's interest. The Department may terminate the Agreement upon 90 days written notice to the Contractor. The Notice of Termination shall specify the extent of the termination and shall be effective 90 days from the delivery of the

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ARTICLE XII. TERMINATION (Continued)

Notice of Termination. The parties agree that for the terminated portion of the Agreement, the remainder of Agreement shall be deemed to remain in effect and is not void. Upon termination of the Agreement, the Contractor shall submit to the Department a Transition Plan as specified in Exhibit E.

B. Termination for Cause

The Department may terminate for cause the performance of work under this Agreement. The Department may terminate the Agreement upon 30 days written notice to the Contractor. The Notice of Termination shall be effective 30 days from the delivery of the Notice of Termination unless the ground for termination is due to threat to life, health or safety of the public and in that case the termination shall take effect immediately. The grounds for termination for cause shall include but not limited to the following:

1. In case of threat of life, health or safety of the public. (Termination of Agreement shall be effective immediately.)
2. A violation of the law or failure to comply with any condition of this Agreement.
3. Inadequate performance or failure to make progress so as to endanger performance of this Agreement.
4. Failure to comply with reporting requirements.
5. Evidence that the Contractor is in an unsatisfactory financial condition as determined by an audit of the Department or evidence of a financial condition that endangers performance of this Agreement and/or the loss of other funding sources.
6. Delinquency in payment of taxes or payment of costs for performance of this Agreement in the ordinary course of business.
7. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the Contractor.
8. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income.
9. The commission of an act of bankruptcy.
10. Finding of debarment or suspension, Article II J.

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ARTICLE XII. TERMINATION (Continued)

11. The Contractor's organizational structure has materially changed.
12. The Department determines that a Contractor may be considered a "high risk" agency as described in 45 CFR 92.12 local government and 45 CFR 74.14 for non-profit organizations. If such a determination is made, the Contractor may be subject to special conditions or restrictions.
13. Funding is reduced or deleted for any State fiscal year by the Department of Finance, Legislature, or Congress.

C. Contractor's Obligation After Notice of Termination

After receipt of a Notice of Termination, and except as directed by the Department, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any funds due under this clause.

The Contractor shall:

1. Stop work as specified in the Notice of Termination.
2. Place no further subcontracts for materials, or services, except as necessary to complete the continued portion of the contract.
3. Terminate all subcontracts to the extent they relate to the work terminated.
4. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts (the approval or ratification of which will be final for purposes of this clause).

D. Effective Date

Termination of this Agreement, shall take effect immediately in the case of an emergency such as threat to life, health, or safety of the public. In all other cases, the termination shall take effect 30 days subsequent to written notice to the Contractor. The notice shall describe the action being taken by the Department, the reason for such action and, any conditions of the termination, including the date of termination. Said notice shall also inform the Contractor of its right to appeal such decision to the Department and the procedure for doing so.

E. Notice of Intent to Terminate by Contractor

Contractor may give the Department 30 days written Notice of Intent to Terminate. In such instance, Contractor shall allow the Department up to 180

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ARTICLE XII. TERMINATION (Continued)

days to transition services. Unless mutually agreed upon, the Contractor does not have the authority to terminate the Agreement. The notice of intent to terminate shall include the reason for such action and the anticipated last day of work. Upon receipt of such notice, the Department will work with the Contractor to terminate the Agreement.

- F. In the event of a termination notice, the Department will present written notice to the Contractor of any condition, such as, but not limited to, transfer of clients, care of clients, return of unspent funds, and disposition of property, which must be met prior to termination.

ARTICLE XIII. REMEDIES

The Contractor agrees that any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the Department as a result of breach of this Agreement by the Contractor, whether such breach occurs before or after completion of the project.

ARTICLE XIV. DISSOLUTION OF ENTITY

The Contractor shall notify the Department immediately of any intention to discontinue existence of the entity or to bring an action for dissolution.

ARTICLE XV. REVISIONS OR MODIFICATIONS

- A. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.
- B. The State reserves the right to revise, waive, or modify the Agreement to reflect any restrictions, limitations, or conditions enacted by Congress or the Legislature or as directed by the Executive Branch of State Government.

ARTICLE XVI. NOTICES

- A. Any notice to be given hereunder by either party to the other may be effected by personal delivery in writing or by registered or certified mail, overnight mail, postage prepaid, return receipt requested, or overnight mail, provided Contractor retains receipt, and shall be communicated as of actual receipt.
- B. Any notice given to the CDA for a contractor's change of legal name, main address, or name of Director shall be addressed to the Director of the Department.

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ARTICLE XVI. NOTICES (Continued)

- C. All other notices with the exception of those identified in Article VII. B. shall be addressed to the California Department of Aging, AAA Based Teams, 1300 National Drive, Suite 200, Sacramento, California 95834. Notices mailed to the Contractor shall be to the address indicated on the coversheet of this Agreement.
- D. Either party may change its address by written notice to the other party in accordance with this Article.

ARTICLE XVII. DEPARTMENT CONTACT

- A. The name of the Department's contact to request revisions, waivers, or modifications affecting this Agreement, will be provided by the State to the Contractor upon full execution of this Agreement.
- B. The contractor shall submit the name of its Agency Contract Representative (ACR), for this Agreement by submitting an Agency Contract Representative form to the CDA's Contracts and Business Services Section. This form requires the ACR's address, phone number, e-mail address, and FAX number to be included on this form. For any change in this information, the Contractor shall submit an amended Agency Contract Representative form to the same address. This form may be requested from the Contracts and Business Services Section.

ARTICLE XVIII. Information Integrity and Security

A. Information Assets

The Contractor shall have in place operational policies, procedures, and practices to protect State information assets, i.e., public, confidential, sensitive and/or personal information as specified in State Administrative Manual, Section 4841.2., GC Section 11019, Department of Finance (DOF) Management Memo 06-12, and DOF Budget Letter 06-34)

Information assets include (but are not limited to):

- Information collected and/or accessed in the administration of the State programs and services.
- Information stored in any media form, paper or electronic.

B. Encryption on Portable Computing Devices

The Contractor is required to encrypt (or use an equally effective measure), any data collected under this Agreement that is confidential, sensitive, and/or personal including data stored on portable computing devices (including but not limited to, laptops, personal digital assistants, and notebook computers) and/or

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ARTICLE XVIII. Information Integrity and Security (Continued)

portable electronic storage media (including but not limited to, discs and thumb/flash drives, portable hard drives).

C. Disclosure

1. The Contractor shall ensure that personal, sensitive and confidential information is protected from inappropriate or unauthorized access or disclosure in accordance with applicable laws, regulations and State policies. The requirement to protect information shall remain in force until superseded by laws, regulations or policies.
2. The Contractor shall protect from unauthorized disclosure names and other identifying information, concerning persons receiving services pursuant to this Agreement, except for statistical information not identifying any participant.
3. "Identifying information" shall include, but not be limited to, name, identifying number, social security number, state driver's license or state identification number, financial account numbers, symbol or other identifying characteristic assigned to the individual, such as finger or voice print or a photograph.
4. The Contractor shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
5. The Contractor shall not, except as otherwise specifically authorized or required by this Agreement or court order, disclose any identifying information obtained under the terms of this Agreement to anyone other than CDA without prior written authorization from CDA. The Contractor may be authorized, in writing, by a participant to disclose identifying information specific to the authorizing participant.
6. The Contractor may allow a participant to authorize the release of information to specific entities, but shall not request or encourage any participant to give a blanket authorization or sign a blank release, nor shall the Contractor accept such blanket authorization from any participant.

D. Training/Education

1. The Contractor must provide ongoing education and training, at least annually, to all employees and subcontractors who handle personal, sensitive or confidential information. Contractor employees, subcontractors, and volunteers must complete the required Security Awareness Training module located at www.aging.ca.gov within 30 days of the start date of the Contract/Agreement or within 30 days of the start

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ARTICLE XVIII. Information Integrity and Security (Continued)

date of any new employee, subcontractor or volunteer. The Contractor must maintain certificates of completion on file and provide them to CDA upon request. Training may be provided on an individual basis or in groups. A sign-in sheet is acceptable documentation for group training in lieu of individual certificates. If internet access is not available, a hardcopy of the training module may be provided to employees and/or volunteers for their completion.

2. Contractor may substitute CDA's Security Awareness Training program with its own Security Training provided such training meets or exceeds CDA's training requirement. Contractors/Vendors shall maintain documentation of training and education provided to their staff, volunteers, and/or subcontractors.
3. All employees and volunteers who handle personal, sensitive or confidential information relating to CDA's programs must participate in Security Awareness Training.

E. Health Insurance Portability and Accountability Act (HIPAA)

The Contractor agrees to comply with the privacy and security requirements of the HIPAA to the extent applicable and to take all reasonable efforts to implement HIPAA requirements. Contractor will make reasonable efforts to ensure that subcontractors comply with the privacy and security requirements of HIPAA.

F. Contractor Confidentiality Statement

The Contractor shall sign and return a Contractor/Vendor Confidentiality Statement CDA 1024 form with this Agreement. This is to ensure that Contractor/Vendors are aware of, and agree to comply with, their obligations to protect CDA information assets from unauthorized access and disclosure.

G. Security Incident Reporting

A security incident occurs when CDA information assets are accessed, modified, destroyed, or disclosed without proper authorization, or are lost, or stolen. The Contractor must report all security incidents to the appropriate CDA Program Manager immediately upon detection. A Security Incident Report form (CDA 1025) must be submitted to the CDA Information Security Officer within five (5) business days of the date the incident was detected.

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ARTICLE XVIII. Information Integrity and Security (Continued)

H. Notification of Security Breach to Data Subjects

1. Notice must be given by the contractor or subcontractor to any data subject whose personal information could have been breached.
2. Notice must be given in the most expedient time possible and without unreasonable delay except when notification would impede a criminal investigation, or when necessary measures to restore system integrity are required.
3. Notice may be provided in writing, electronically, or by substitute notice in accordance with State law, regulation, or policy.

I. Software Maintenance

The Contractor shall apply security patches and upgrades and keep virus software up-to-date on all systems on which State data may be used.

J. Provisions of this Article

The provisions contained in this Article shall be included in all contracts of both the contractor and its subcontractors.

ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA

A. Copyrights

1. If any material funded by this Agreement is subject to copyright, the State reserves the right to copyright such material and the Contractor agrees not to copyright such material, except as set forth in subdivisions (b) and (c) of this section.
2. The Contractor may request permission to copyright material by writing to the Director of the Department. The Director shall consent to or give the reason for denial to the Contractor in writing within sixty (60) days of receipt of the request.
3. If the material is copyrighted with the consent of the Department, the State reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, prepare derivative works, publish, distribute and use such materials, in whole or in part, and to authorize others to do so, provided written credit is given the author.
4. 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

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ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA (Continued)

contract for the acquisition, operation, or maintenance of computer software in violation of copyright laws.

B. Rights in Data

1. The Contractor shall not publish or transfer any materials, as defined in item 2 below, produced or resulting from activities supported by this Agreement without the express written consent of the Director of the Department. That consent shall be given or the reasons for denial shall be given and any conditions under which it is given or denied within thirty (30) days after the written request is received by the Department. The Department may request a copy of the material for review prior to approval of the request. This subsection is not intended to prohibit contractors from sharing identifying client information authorized by the participant or summary program information which is not client-specific.
2. As used in this Agreement, the term "subject data" means writings, sound recordings, pictorial reproductions, drawings, designs or graphic representations, procedural manuals, forms, diagrams, workflow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are first produced or developed under this Agreement. The term does not include financial reports, cost analyses, and similar information incidental to contract administration, or the exchange of that information between Area Agencies on Aging to facilitate uniformity of contract and program administration on a statewide basis.
3. Subject only to the provisions of Article XVIII and Article XIX of this Exhibit, the State may use, duplicate, or disclose in any manner, and have or permit others to do so subject to State and federal law all subject data delivered under this Agreement.
4. Materials published or transferred by Contractor shall: (a) state "The materials or product were a result of a project funded by a contract with the California Department of Aging"; (b) give the name of the entity, the address, and telephone number at which the supporting data is available; and (c) include a statement that "The conclusions and opinions expressed may not be those of the California Department of Aging and that the publication may not be based upon or inclusive of all raw data."

**ARTICLE I. ASSURANCES SPECIFIC TO THE EMPLOYMENT STIMULUS SENIOR
COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)**

- A. The Contractor shall assure the following:
1. Services are provided only to the defined Eligible Service Population in the same counties/geographic areas as currently authorized in Program Year 08 SCSEP grants.
 2. Participants, while enrolled in the Title V SCSEP, shall receive at least the current minimum wage plus fringe benefits required by law including compensation for federal holidays. Fringe benefits, including annual physical examinations, must be provided uniformly to all participants within a project or subproject. Participants must be paid for hours spent in orientation, training, other required activities, and time spent working in the assigned community service employment activity. [OAA Section 502(c)(6)(A)(i), CFR 641.535(a)(b)(i)].
 3. Participants are notified they are enrolled with ARRA funds and the services they will be provided.
 4. Contractors who are over enrolled in their regular SCSEP program may move a limited number of participants to ARRA funding utilizing the SPARQ transfer utility. Only participants who enrolled in the regular SCSEP program on or after January 1, 2009 may be moved.
 5. Assignment of participants to Host Agency training positions will not reduce the number of employment opportunities or vacancies that would otherwise be available to individuals not participating in the program.
 6. Participants shall be provided skill enhancement opportunities, personal and employment-related counseling, assistance in transition to unsubsidized employment assistance, and other benefits. (20 CFR 641.535)
 7. Funds shall be spent expeditiously and effectively, with full transparency and accountability ensured by submitting all required program and financial reports.
 8. ARRA funds will supplement, not supplant, ongoing SCSEP funding.
- B. ARRA funds are a one-time addition to the current program as administered through the SCSEP Program.

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**ARTICLE I. ASSURANCES SPECIFIC TO THE EMPLOYMENT STIMULUS SENIOR
COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)**

- C. The Contractor shall assure that the Title V SCSEP will serve the eligible service population and give priority to individuals who are 65 years of age and older or (a) have a disability; (b) have limited English proficiency or low literacy skills; (c) reside in a rural area; (d) are veterans or spouses of veterans as defined in 20 CFR 641.520(a)(2); (e) have low employment prospects; (f) have failed to find employment after utilizing services provided through the One-Stop Delivery System; or (g) are homeless or at risk for homelessness. [OAA Section 518(b)].
- D. *mf* The Contractor will comply with an ~~average participation cap for eligible~~ individuals of no more than ~~27 months~~ in the aggregate, unless requested and ~~approved by the DOL~~. [OAA Section 502(b)(1)(C)].
- E. When monitoring local projects (sub-sub grantees) the Contractor will use a tool that mirrors the CDA's simplified monitoring tool. [OAA Section 503(f)(1)].
- F. The Contractor will provide a written policy to the Department regarding terminations (including IEP terminations), leave of absences from the program and grievance procedures. (20 CFR 641.910), (20 CFR 641.580)
- G. The Contractor is required to provide a 30-day notice for all terminations except in the case of the participant providing false information or for cause. Terminations must not discriminate against persons based on race, national origin, ethnic group identification, religion, age, sex sexual orientation, color or disability (refer to the CDA Title V Contract Exhibit D Article II., C. Nondiscrimination).

Criteria for termination of participants must be objective, non-arbitrary, and nondiscriminatory and be based on priorities for service per the Older Americans Act Amendments of 2006, Section 518(b). Participants must be treated uniformly and all program policies and procedures must be followed. (20 CFR Part 641.580).

- H. Political Activities. The Contractor shall assure the following:
1. The contractor will post a notice at each training site and make available to each participant a written explanation of allowable and unallowable political activities in accordance to the OAA Section (b)(1)(P).
 2. Notices shall state that Title V SCSEP participants may engage freely in the political process with the following exceptions:
 - a. Participants may not engage in partisan or nonpartisan political activities on the job;

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**ARTICLE I. ASSURANCES SPECIFIC TO THE TITLE V SENIOR COMMUNITY SERVICE
EMPLOYMENT PROGRAM (SCSEP) (Continued)**

- b. Participants may not present themselves as a spokesperson for Title V SCSEP while engaged in political activity; and
 - c. Participants may not be assigned to the office of a Member of Congress, a state or local legislator, or on any staff of a legislative committee.
- I. The Contractor shall have appropriate office space for conducting private participant interviews to enable participants to freely discuss their backgrounds and experiences in a confidential manner.

ARTICLE II. REPORTING PROVISIONS [OAA Section 503(f)(3)(4)] [20 CFR 641.430(f)]

A. The Contractor shall:

- 1. Input program and participant data into SPARQ using the Web-Based Data Collection System (WDCS) on a routine basis. The Contractor must review and continually seek to clear errors in the WDCS. The data must be timely, complete, accurate, and verifiable.
- 2. Create a plan to ensure accuracy of data from all levels which includes a method for the Contractor or subcontractors to verify the accuracy of the data prior to submission to the Department.
- 3. Separately track ARRA program data from the regular SCSEP grant data, using the SPARQ data collection and performance system.
- 4. Separately track ARRA funds from the regular SCSEP grant.
- 5. Submit all required financial reports timely in accordance with ARRA requirements.
- 6. Train and orient staff and subcontractor's staff on data collection and reporting requirements.

B. The Contractor shall review Management Reports in accordance with DOL requirements to ensure accuracy of data inputted into the WDCS. Management Reports must be reviewed by the Contractor according to the frequency listed:

- Management Reports, Monthly

C. The Contractor shall review Data Quality Reports (DQRs) in accordance with DOL requirements to ensure accuracy of data inputted into the WDCS

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ARTICLE II. REPORTING PROVISIONS (Continued)

DQRs must be reviewed by the Contractor according to the frequency listed:

- Data Quality-Reports, Monthly

- D. The Contractor shall submit a Corrective Action Plan as part of its Annual SCSEP Project Narrative describing the actions to be taken to achieve the performance goals if the project did not achieve the established performance goals in the previous fiscal year. [20 CFR 6419.790(b)].

ARTICLE III. APPEAL PROCESS

In relation to an appeal conducted as a result of a determination of ineligibility or termination for cause against a Title V SCSEP participant, the decision of the Contractor is final. In accordance with 20 CFR Part 641.910, no appeal shall be elevated to the DOL unless a federal law has been violated. In the event an appeal is elevated to DOL, a copy must be provided to the Department. Complaints alleging discrimination on the basis of race, color, religion, sex, national origin, disability, or age may be filed with the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-4123, Washington, D.C. 20210.

- A. In the event of a Contract dispute or grievance regarding the terms and conditions of this Contract both parties shall abide by the following procedures:
1. The Contractor shall first discuss the problem informally with the designated coach of the AAA based team within the Department. If the problem is not resolved, the Contractor must, within 15 working days of the failed attempt to resolve the dispute with the designated coach of the AAA based team within the Department, submit a written complaint together with any evidence to the Long-Term Care and Aging Services Division Deputy Director. The complaint must include the disputed issues, the legal authority/basis for each issue which supports the Contractor's position and the remedy sought. The Deputy Director shall, within 15 working days after receipt of the Contractor's written complaint, make a determination on the dispute and issue a written decision and reasons therefore. All written communication shall be pursuant to Exhibit D, Article XVI, of this Contract. Should the Contractor disagree with the decision of the Deputy Director, the Contractor may appeal the decision to the Chief Deputy Director of the Department.
 2. The Contractor's appeal must be submitted within ten (10) working days from the date of the decision of the Division Deputy Director; be in writing; state the reasons why the decision is unacceptable; and include the original complaint, the decision that is the subject of appeal, and all supporting documents. Within twenty (20) working days from the date of the Contractor's appeal, the Chief Deputy Director or designee shall meet

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ARTICLE III. APPEAL PROCESS (Continued)

with the Contractor for review of the issues raised on appeal and issue a final written decision.

3. The Contractor may appeal the final decision of the Chief Deputy Director in accordance with the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Subchapter 2.5 commencing with Section 251, or Subchapter 3 commencing with Section 300, whichever is applicable, of the California Code of Regulations.)
4. Costs incurred by the Contractor or subcontractor for administrative or court review is not reimbursable.

ARTICLE IV. ARRA SPECIFIC TERMS AND CONDITIONS

- A. This Agreement is issued under the authority of the American Recovery and Reinvestment Act of 2009, P.L. 111-5. By receiving funds under this Agreement, the Contractor assures that it will carry out the project/program as authorized and will comply with the terms and conditions and other requirements of this Agreement.
- B. Buy American - Use of American Iron, Steel, and Manufactured Goods
Contractors may not use any funds obligated under this Agreement for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States unless HHS waives the application of this provision. (ARRA Sec.1605)
- C. Wage Rate Requirements
[This term and condition shall not apply to tribal contracts entered into by the Indian Health Service funded with this appropriation. (ARRA Title VII—Interior, Environment, and Related Agencies, Department of Health and Human Services, Indian Health Facilities)] Subject to further clarification issued by the Office of Management and Budget, and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this award shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code. (ARRA Sec. 1606)

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ARTICLE IV. ARRA SPECIFIC TERMS AND CONDITIONS (Continued)

D. Preference for Quick Start Activities (ARRA)

In using funds from this Agreement for infrastructure investment, Contractors shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of ARRA.

Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit. (ARRA Sec. 1602)

E. Limit on Funds (ARRA)

None of the funds appropriated or otherwise made available by the Nutrition Stimulus funds may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. (ARRA Sec. 1604)

F. Disclosure of Fraud or Misconduct

Contractors awarded funds made available under the ARRA shall promptly refer to the HHS Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. The HHS Office of Inspector General can be reached at <http://www.oig.hhs.gov/fraud/hotline/>

G. This Agreement is subject to the requirements of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Tribal Governments under Title 45 Code of Federal Regulations, Part 92.

H. The contractor shall notify ARRA program participants verbally and in writing at the time of enrollment that:

1. They are being enrolled with ARRA funding that is due to expire on June 30, 2010.
2. They are subject to the same rights and responsibilities as enrollees in the regular SCSEP program.
3. Every effort will be made to help them obtain unsubsidized employment prior to the expiration of the ARRA program.
4. Prior to the expiration of ARRA funding, timely transition planning will be undertaken to determine the most appropriate services that may still be needed by the participant, including referral of job-ready

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ARTICLE IV. ARRA SPECIFIC TERMS AND CONDITIONS (Continued)

participants to the One-Stop Career Center, and transfer of participants who require additional community service training into the regular program provided sufficient funds are available in that program. If they are not able to transition to the regular program, they may be terminated at the expiration of the ARRA funding availability. However, they will be given priority for re-enrollment in SCSEP consistent with eligibility requirements and statutory priorities of service.

ARTICLE V. TRANSITION PLAN

- A. The Contractor shall submit a transition plan to the Department within three business days of delivery of a written Notice of Termination to the contract. The transition plan must be approved by the Department and shall at a minimum include the following:
1. A process on how participants will be notified of program closure, reduction of slots, or change in service provider.
 2. A process on how confidential records of participants and database files will be relinquished to the Contractor or new service provider.
 3. A process to communicate with National SCSEP grantees to transfer current participants into other employment/training opportunities.
 4. A process on how supportive services will be identified and provided to participants to ease in the transition.
 5. A process to conduct a property inventory and plan to dispose or transfer, or return to the Department all equipment purchased during the entire operation of the contract.
- B. Contractor shall implement the Transition Plan as approved by the Department. The Department will monitor the Contractor's progress in carrying out all elements of the transition plan.
- C. If the Contractor fails to provide and implement a transition plan as required by Exhibit D, Article XII, of this Agreement, the Contractor agrees to implement a transition plan submitted by the Department to the Contractor following the Notice of Termination.

State of California
 California Department of Aging
 CDA 276 (Rev 01/06)

Award#: ES-0809-30
 Date: 2/17/2009
 Amendment #: Stimulus
 Date: 4/10/2009

Exhibit B - Budget Detail, Payment Provisions, and Closeout
SENIOR COMMUNITY SERVICE EMPLOYMENT STIMULUS
Budget Display
Fiscal Year 2008/09 and 2009/10

Stanislaus County, Department of Aging and Veteran Services

		TOTAL
2008/09 FEDERAL FUNDS		
Federal Title V *		8,319
502 (e) Funds		-
	Subtotal	8,319
2008/09 Participant Slots	1	
TOTAL 2008/09 FEDERAL TITLE V		8,319
2009/10 FEDERAL FUNDS		
Federal Title V *		24,823
502 (e) Funds		24,823
	Subtotal	24,823
2009/10 Participant Slots	3	
TOTAL 2009/10 FEDERAL TITLE V		24,823
Grand Total Federal Funds		33,142
Total Participant Slots		4
* Maximum of 8% allowed for Administration * Minimum of 79% for participant wages and fringe benefits		

STATE OF CALIFORNIA
STANDARD AGREEMENT

STD 213 (Rev 06/03)

AGREEMENT NUMBER

NS-0809-30

REGISTRATION NUMBER

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

STATE AGENCY'S NAME

California Department of Aging

CONTRACTOR'S NAME

STANISLAUS COUNTY, DEPARTMENT OF AGING AND VETERAN SERVICES

2. The term of this Agreement is: April 1, 2009 (or, if applicable, when approved by DGS, Office of Legal Services, whichever is later.)
 September 30, 2010

3. The maximum amount of this Agreement is: **\$ 124,272.00**
 One hundred twenty-four thousand two hundred seventy-two and 00/100

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.

Exhibit A – Scope of Work 3 page(s)

Exhibit B – Budget Detail, Payment Provisions, and Closeout 8 page(s)

Exhibit C* – General Terms and Conditions GTC 307

Check mark one item below as Exhibit D:


Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement) 26 page(s)

Exhibit - D* Special Terms and Conditions

Exhibit E – Additional Provisions 4 page(s)

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 www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) STANISLAUS COUNTY, DEPARTMENT OF AGING AND VETERAN SERVICES		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS 121 DOWNEY AVENUE, SUITE 102 MODESTO CA 95354		
STATE OF CALIFORNIA		
AGENCY NAME California Department of Aging		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Rachel de la Cruz, Manager, Contracts and Business Services		
ADDRESS 1300 National Drive, Suite 200, Sacramento CA. 95834		

Exempt per:
 Mello Grunland Older Californians Act

**Scope of Work – Exhibit A
Nutrition Stimulus**

ARTICLE I. DEFINITIONS

- A. **Program Requirements** means Title III program requirements found in the Older Americans Act (OAA 42) (USC Section 3001-3058); Code of Federal Regulations (45 CFR XIII, 1321); Title 22, California Code of Regulations (CCR), Section 7000 et seq., and California Department of Aging (CDA) Program Memoranda.
- B. **American Recovery and Reinvestment Act of 2009 (ARRA)** means the law enacted by Congress and signed into law on February 17, 2009 that contains funding for a variety of programs that support Americans during challenging economic times. The law includes funding to support the Title III C Elderly Nutrition Program services including nutritious meals, nutrition education and other appropriate nutrition services for older Americans in order to maintain health, independence and quality of life.
- C. **Nutrition Stimulus funds** means the ARRA funds awarded to CDA to help older Californians maintain their health and independence by providing Title III C meals to seniors in need of food and restoring congregate and home-delivered nutrition services and staff positions that have been eliminated or reduced.
- D. **Title III C-1 (Congregate Nutrition Services)** means nutrition services for older individuals in a congregate setting. Services include meals, nutrition and health promotion education, health promotion programs, nutrition risk screening, and opportunities for socialization. Each meal shall provide one-third (1/3) of the Dietary Reference Intakes (DRI) and comply with the current Dietary Guidelines for Americans, 2005.
- E. **Title III C-2 (Home Delivered Nutrition Services)** means nutrition services provided to homebound older individuals including meals, nutrition and health promotion education, and nutrition risk screening. Each meal shall provide one-third (1/3) of the Dietary Reference Intakes (DRI) and comply with the current Dietary Guidelines for Americans, 2005.
- F. **Program Income** means revenue generated by the Contractor or subcontractor from contract-supported activities. Program income is:
1. Voluntary contributions received from a participant or responsible party as a result of services.
 2. Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement.
 3. Royalties received on patents and copyrights from contract-supported activities.

**Scope of Work – Exhibit A
Nutrition Stimulus**

ARTICLE I. DEFINITIONS (Continued)

4. Proceeds from sale of items fabricated under a contract agreement.
- G. **Indirect Costs** means costs incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objective specifically benefited, without effort disproportionate to the results achieved.
- H. **Eligible Service Population** for Nutrition Stimulus funds means individuals 60 years of age or older, with emphasis on those in economic and social need with particular attention to low income minority individuals, older individuals with Limited English Proficiency, and older individuals residing in rural areas. [OAA, Section 305 (a)(2)(E)] [Title 22, CCR, Sections 7125, 7127, 7130, and 7135].

ARTICLE II. SCOPE OF WORK

- A. The Contractor shall perform the following for the Nutrition Stimulus funded program:
 1. Contractor shall make every effort to increase the number of meals served over prior fiscal year. The Nutrition Stimulus funds are intended to provide meals to seniors in need of food, restore nutrition services that have been cut, and reinstate staff positions which may have been eliminated or reduced. Performance shall not be unilaterally reduced without prior consultation with, and written approval of, the Department.
 2. Implement the statutory provisions of the Title III C1 and C2 Programs (OAA, Section 330-339) in accordance with State and federal laws and regulations for this program.
 3. Establish and maintain a nutrition program pursuant to Title 22 CCR, Sections 7630 through 7638.13, and ensure all applicable provisions required within this Agreement are included in the subcontract(s).
 4. This contract shall promote and maintain high standards of food safety and sanitation as required by the California Retail Food Code (CRFC).
 5. Enter into contracts with subcontractors which require them to provide services pursuant to Title 22 CCR, Sections 7352 through 7364, and ensure all applicable provisions required within this Agreement are included in the subcontract(s).

Scope of Work – Exhibit A
Nutrition Stimulus

ARTICLE II. SCOPE OF WORK (Continued)

6. Review, approve, and monitor subcontractor budgets and expenditures and any subsequent amendments and revisions to budgets. Contractor shall ensure that all budgeted funds are expended by the end of the contract period.
7. Monitor, on an ongoing basis, the subcontractor's use of Nutrition Stimulus funds through reporting, site visits, regular contact, or other means to provide reasonable assurance the subcontractor administers Nutrition Stimulus funds in compliance with laws, regulations, and the provisions of contracts and that performance goals are achieved [OMB Circular A-133.400(d)(3)].
8. Monitor nutrition programs as required by regulation Title 22 Section 7634.3 (d). AAA Registered Dietician (RD) must inspect on-site annually each food preparation site (central kitchen). However, non-food preparation congregate dining sites must be inspected using a standardized procedure developed by the AAA that assures all sites are seen systematically, but not necessarily every year. Consistent with generally accepted standards for food safety AAA polices and procedures must guarantee the following:
 - Inspect non-food preparation nutrition sites at least every other year.
 - Inspect non-food preparation nutrition sites more often if they are seen to have an increased risk for food safety violations or a history of corrective actions.
 - Inspect central kitchens on-site annually.
9. Provide support and technical assistance to subcontractors and respond in writing to all written requests for direction, guidance, and interpretation of instructions to include client and service data.
10. Distribute and maintain up-to-date CDA requirements so that all responsible persons have ready access to standards, policies, and procedures.
11. Maintain a program data collection and reporting system as specified by CDA.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
Nutrition Stimulus**

ARTICLE I. FUNDS

A. Expenditure of Funds

1. The Contractor shall expend all funds received hereunder in accordance with this Agreement.
2. Any reimbursement for authorized travel and per diem shall be at rates not to exceed those amounts paid by the State in accordance with Department of Personnel Administration's rules and regulations.
 - Travel -
<http://www.dpa.ca.gov/textdocs/freepmls/PML2008019.pdf>
 - Per Diem (meals and incidentals) -
<http://www.dpa.ca.gov/personnel-policies/travel/meals-and-incidentals.htm>
 - Lodging –
<http://www.dpa.ca.gov/personnel-policies/travel/short-term-travel.htm>

This is not to be construed as limiting the Contractor from paying any differences in costs, from funds other than those provided by this Department, between the Department of Personnel Administration rates and any rates the Contractor is obligated to pay under other contractual agreements. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State. (CCR, Title 2 Section 599.615 et seq.)

Contractor agrees to include these requirements in all contracts it enters into with subcontractors/vendors to provide services pursuant to this Agreement.

3. The Department reserves the right to refuse payment to the Contractor or disallow costs for any expenditure, as determined by the Department to be: out of compliance with this Agreement, unrelated or inappropriate to contract activities, when adequate supporting documentation is not presented, or where prior approval was required but was either not requested or not granted.

B. Accountability for Funds

The Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from those for any other funds administered by the Contractor, and shall be maintained in accordance with Generally Accepted Accounting Principles and Procedures and the Office of Management and Budget's Cost Principles.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
Nutrition Stimulus**

ARTICLE I. FUNDS (Continued)

C. Unexpended Funds

Upon termination, cancellation, or expiration of this Agreement, or dissolution of the entity, the Contractor shall return to the State immediately upon written demand, any funds provided under this Agreement, which are not payable for goods or services delivered prior to the termination, cancellation, or expiration of this Agreement, or the dissolution of the entity.

D. Availability of Funds

1. It is understood between the parties that this Agreement may have been written before ascertaining the availability or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if this Agreement were executed after that determination was made.

2. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the Budget Acts of the appropriate fiscal years for the purpose of these programs. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement in any manner.

3. Limitation of State Liability

Payment for performance by the Contractor shall be dependent upon the availability of future appropriations by the Legislature or Congress for the purposes of this contract and approval of an itemized Nutrition Stimulus Budget (CDA 122s). No legal liability on the part of the State for any payment may arise under this contract until funds are made available, the itemized budget is received and approved by the State, and the Contractor has received an executed contract.

4. Funding Reduction(s)

a. If funding for any State fiscal year is reduced or deleted by the Department of Finance, Legislature, or Congress for the purposes of this program, the State shall have the option to either:

- Terminate the Contract pursuant to Exhibit D, Article XII, B.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
Nutrition Stimulus**

ARTICLE I. FUNDS (Continued)

- Offer a contract amendment to the Contractor to reflect the reduced funding for this contract.
 - b. In the event that the State elects to offer an amendment, it shall be mutually understood by both parties that (1) the State reserves the right to determine which contracts, if any, under this program shall be reduced and (2) some contracts may be reduced by a greater amount than others, and (3) that the State shall determine at its sole discretion the amount that any or all of the contracts shall be reduced for the fiscal year.
- E. Interest Earned**
1. If, as a result of advanced funds, the project earns interest on funds awarded by the State, that interest shall be identified as income to the program and used for program expenditures, with full documentation on file for all programs.
 2. For Nutrition Stimulus program:
 - a. Nonprofits shall maintain advances of federal funds in interest bearing accounts, unless (1), (2), or (3) apply.
 - (1) The recipient receives less than \$120,000 in federal awards per year.
 - (2) The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on federal cash balances.
 - (3) The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.
 - b. For nonprofit entities, interest earned in excess of \$250 on federal advances deposited in interest bearing accounts shall be remitted annually to the Department.
- F. Program Income**
1. Program Income must be reported and expended under the same terms and conditions as the program funds from which it is generated.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
Nutrition Stimulus**

ARTICLE I. FUNDS (Continued)

2. Program Income must be used to pay for current allowable costs of the program in the same fiscal year that the income was earned.
3. For Nutrition Stimulus program: Program Income must be spent before contract funds and may reduce the total amount of contract funds payable to the Contractor.
4. Program Income may not be used to meet the matching requirements of this Agreement.
5. Program Income must be used to expand services.

G. Matching Contributions

1. Matching means the value of third-party in-kind contributions and that portion of program and administrative costs funded (cash or in-kind) by the Contractor, subcontractor, or other local resources.
2. Third party in-kind contributions are property or services provided which benefit a contract-supported project or program and which are contributed by non-federal third parties without charge to the Contractor or subcontractor.
3. Third party in-kind contributions count towards satisfying a matching requirement only where the payments would be otherwise allowable costs if the party receiving the contributions were to pay for the costs.
4. Third party in-kind contributions must be necessary for the proper and efficient accomplishment of Nutrition Stimulus administration and program activities.
5. Costs incurred by the Contractor or subcontractor must be verifiable from the records of the Contractor or subcontractor.
6. Costs must be allowable as outlined in Office of Management and Budget (OMB) circulars and may be cash or in-kind contributions.
7. Other local resources include cash donations (not including program income) and cash generated from fundraising activities.
8. Non-Matching Contributions are local funding that does not qualify as matching contributions and/or is not being budgeted as matching contributions. (e.g., Title V, Title XX, overmatch, etc.).

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
Nutrition Stimulus**

ARTICLE I. FUNDS (Continued)

9. The required program matching contributions for Title C Nutrition Stimulus funds is 15 percent.
10. Matching contributions generated in excess of the minimum required are considered overmatch.

H. Nutrition Stimulus Administration

Nutrition Stimulus Administration shall be no more than 10 % of the total Nutrition Stimulus allocation.

ARTICLE II. BUDGET AND BUDGET REVISION

- A. The Contractor shall be compensated for expenses only as itemized in the approved Nutrition Stimulus Budget (CDA 122s) and shall not be entitled to payment for these expenses until the Nutrition Stimulus Budget (CDA 122s) is reviewed and approved by the Department. The approved Nutrition Stimulus Budget is hereby incorporated by reference into this Agreement as a part of Exhibit B.
- B. The Contractor shall submit electronically the original Nutrition Stimulus Budget (CDA 122s) no later than 15 days after receiving this contract.
- C. The Contractor shall submit electronically a budget revision 30 days after receiving an amended Nutrition Stimulus Budget Display with changes in funding levels, unless otherwise instructed by the Department.
- D. The final date to submit a budget revision is July 30, 2010, unless otherwise specified by CDA.
- E. The purpose of the Nutrition Stimulus funds is to increase or maintain the number of congregate and home-delivered meals provided to older adults, and required reporting must document such increases. No transfer of Nutrition Stimulus funds will be permitted.
- F. Indirect Costs
 1. The maximum reimbursement amount allowable for indirect costs is 8% of Contractor's direct costs, excluding in-kind contributions and nonexpendable equipment.

Contractor agrees to include this requirement in all contracts it enters into with subcontractors/vendors to provide services pursuant to this Agreement.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
Nutrition Stimulus**

ARTICLE II. BUDGET AND BUDGET REVISION (Continued)

2. Contractors requesting reimbursement for indirect costs shall retain on file an approved indirect cost rate or an allocation plan documenting the methodology used to determine the indirect costs.
3. Indirect costs exceeding the 8% maximum may be budgeted as in-kind and used to meet the minimum matching requirements.

ARTICLE III. PAYMENTS

A. Nutrition Stimulus Program

Upon execution of this Agreement, CDA will make quarterly advances of Nutrition Stimulus funds to the Contractor, during the first month of each quarter. The Contractor shall prepare and submit to the AAA-Based Team, in electronic format, a Nutrition Stimulus Quarterly Financial Status Report/Request for Funds (CDA 151s). These requests must be submitted by the 15th of the month prior to the beginning of the quarter.

Not later than 5 days after the end of each calendar quarter, the Contractor shall submit a Nutrition Stimulus Quarterly Financial Status Report/Request for Funds (CDA 151s) reporting expenditures for the prior quarter. The report must be submitted to the AAA-Based Team in electronic format.

Expenditures and requests for funds have different due dates; thus, submitting them on the same report will not be possible. Signatures of the AAA director and staff are not required.

- B. The Department shall review requests for payment to ensure compliance with the approved Nutrition Stimulus Budget (CDA 122s).
- C. During the contract period the CDA shall pay the Contractor a total not to exceed the amount shown on the Budget Display, which is hereby incorporated by reference.
- D. Financial Management Systems

The Contractor shall meet the following standards for its financial management systems, as stipulated in 45 CFR Section 92.20 (governmental) or 45 CFR, Section 74.21 (non-profits):

1. Financial Reporting
2. Accounting Records
3. Internal Control
4. Budgetary Control
5. Allowable Costs

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
Nutrition Stimulus**

ARTICLE III. PAYMENTS (Continued)

6. Source Documentation
 7. Cash Management
- E. The Department may require financial reports more frequently than indicated above or with more detail (or both), upon written notice to the Contractor, until such time as the Department determines that the financial management standards are met.

ARTICLE IV. CLOSEOUT

- A. The Nutrition Stimulus Financial Closeout Report (CDA 180s) shall be submitted to the AAA-Based Team, within 30 calendar days following the end of the contract period, or within 30 days following termination prior to the end of the contract period, unless otherwise specified by CDA.

State of California	Award #:	NS-0809-30
California Department of Aging	Date:	3/18/2009
CDA 001 (Rev. 11/05)	Amendment #:	0
	Date:	3/25/2009

Exhibit B - Budget Detail, Payment Provisions, and Closeout
NUTRITION ECONOMIC STIMULUS PLAN
Budget Display
Fiscal Years 2008/09 & 2009/10
Stanislaus County, Department of Aging and Veteran Services

2008-2009	Baseline	Remaining Funds	Total	Net Change
Congregate Nutrition				
Federal Title IIIC1	29,146	-	29,146	-
Total Congregate Nutrition	29,146	-	29,146	-
Home-Delivered Meals				
Federal Title IIIC2	14,349	-	14,349	-
Total Home Delivered Meals	14,349	-	14,349	-
Grand Total - All Funds	43,495	-	43,495	-
Funding Summary				
Federal Funds	43,495	-	43,495	-
	43,495	-	43,495	-

2009-2010	Baseline	Remaining Funds	Total	Net Change
Congregate Nutrition				
Federal Title IIIC1	54,129	-	54,129	-
Total Congregate Nutrition	54,129	-	54,129	-
Home-Delivered Meals				
Federal Title IIIC2	26,648	-	26,648	-
Total Home Delivered Meals	26,648	-	26,648	-
Grand Total - All Funds	80,777	-	80,777	-
Funding Summary				
Federal Funds	80,777	-	80,777	-
	80,777	-	80,777	-

TOTAL STIMULUS GRANT ALLOCATION	Baseline	Remaining Funds	Total	Net Change
Congregate Nutrition				
Federal Title IIIC1	83,275	-	83,275	-
Total Congregate Nutrition	83,275	-	83,275	-
Home-Delivered Meals				
Federal Title IIIC2	40,997	-	40,997	-
Total Home Delivered Meals	40,997	-	40,997	-
Grand Total - All Funds	124,272	-	124,272	-
Funding Summary				
Federal Funds	124,272	-	124,272	-
	124,272	-	124,272	-

**Special Terms and Conditions - Exhibit D
Nutrition Stimulus**

ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS

A. Definitions

1. The term "Agreement" or "Contract" shall mean the Standard Agreement (Std. 213), exhibits A, B, C, D, and E, and an approved Nutrition Stimulus Budget, which is hereby incorporated by reference, amendments, and any other documents incorporated by reference, unless otherwise provided for in this Article.
2. "State" and "Department," mean the State of California and the California Department of Aging (CDA) interchangeably.
3. "Contractor" means the Area Agency on Aging to which funds are awarded under this Agreement and which is accountable to the State and/or federal government for use of these funds and which is responsible for executing the provisions for services of this Agreement.
4. "Subcontractor" or "vendor" means the legal entity that receives funds from the Contractor to provide direct services identified in this Agreement. Subcontract and/or vendor agreement means a subcontract and/or vendor agreement supported by funds from this Agreement.
5. "Reimbursable item" also means "allowable cost" and "compensable item."
6. "CFR" means Code of Federal Regulations. "CCR" means California Code of Regulations. "GC" means Government Code. "W & I" means Welfare and Institutions Code. "USC" means United States Code. "PCC" means the Public Contract Code.

B. Resolution of Language Conflicts

In the event of any inconsistency between the articles, attachments, or provisions which constitute this contract, the following order of precedence shall apply:

1. The terms and conditions of this American Recovery and Reinvestment Act (ARRA) of 2009 Award and other requirements have the following order of precedence if there is any conflict in what they require: (1) the ARRA; (2) other applicable Federal statutes and their implementing regulations; (3) M-09-10; and (4) terms and conditions of ARRA award.
2. Standard Agreement (STD 213), all Exhibits and any amendments thereto.
3. All other contract policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy

**Special Terms and Conditions - Exhibit D
Nutrition Stimulus**

ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS (Continued)

Statements apply unless they conflict or are superseded by the terms and conditions implementing the ARRA requirements. Recipients are responsible for contacting CDA for any needed clarifications.

4. Any other documents incorporated herein by reference.
5. Program memos and other guidance issued by the Department.

ARTICLE II. ASSURANCES

A. Law, Policy and Procedure, Licenses, and Certificates

The Contractor agrees to administer this Agreement and require any subcontractors to administer their subcontracts in accordance with this Agreement, and with all applicable local, State, and federal laws and regulations including, but not limited to, discrimination, wages and hours of employment, occupational safety, and to fire, safety, health, and sanitation regulations, directives, guidelines, and/or manuals related to this Agreement and resolve all issues using good administrative practices and sound judgment. The Contractor and its subcontractors shall keep in effect all licenses, permits, notices, and certificates that are required by law.

- B.** The Contractor shall require language in all subcontracts to require all subcontractors to comply with all applicable State and federal laws.

C. Nondiscrimination

The Contractor shall comply with all federal statutes relating to nondiscrimination. These include those statutes and laws contained in the Contractor Certification Clauses (CCC 307) which is hereby incorporated by reference. In addition, Contractor shall comply with the following:

1. Equal Access to Federally-Funded Benefits, Programs and Activities (Title VI of the Civil Rights Act of 1964.)

Contractor shall ensure compliance with Title VI of the Civil Rights Act of 1964 (42 USC. Section 2000d; 45 CFR Part 80), which prohibits recipients of federal financial assistance from discriminating against persons based on race, color, religion, or national origin.

2. Equal Access to State-Funded Benefits, Programs and Activities
Contractor shall, unless exempted, ensure compliance with the requirements of Government Code sections 11135-11139.5, and Section 98000 et seq. of Title 22 of the California Code of Regulations, which prohibit recipients of state financial assistance from discriminating against

**Special Terms and Conditions - Exhibit D
Nutrition Stimulus**

ARTICLE II. ASSURANCES (Continued)

persons based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. (22 CCR 98323) (Chapter 182, Stats. 2006)

3. Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. Sections 12101 et seq.).
4. Contractor agrees to include these requirements in all contracts it enters into with subcontractors to provide services pursuant to this Agreement.

D. Standards of Work

The Contractor agrees that the performance of work and services pursuant to the requirements of this Agreement shall conform to accepted professional standards.

E. Conflict of Interest

1. The Contractor shall prevent employees, consultants, or members of governing bodies from using their positions for purposes including, but not limited to, the selection of subcontractors, that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as family, business, or other ties. In the event that the State determines that a conflict of interest exists, funds may be disallowed by the State and such conflict may constitute grounds for termination of the Agreement.
2. This provision shall not be construed to prohibit employment of persons with whom the Contractor's officers, agents, or employees have family, business, or other ties, so long as the employment of such persons does not result in a conflict of interest (real or apparent) or increased costs over those associated with the employment of any other equally qualified applicant, and such persons have successfully competed for employment with the other applicants on a merit basis.

F. Covenant Against Contingent Fees

1. The Contractor warrants that no person or selling agency has been employed or retained to solicit this Agreement. There has been no

Special Terms and Conditions - Exhibit D
Nutrition Stimulus

ARTICLE II. ASSURANCES (Continued)

agreement to make commission payments in order to obtain this Agreement.

2. For breach or violation of this warranty, the State shall have the right to terminate this Agreement without liability or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingency fee.

G. Payroll Taxes and Deductions

The Contractor shall promptly forward payroll taxes, insurances, and contributions, including State Disability Insurance, Unemployment Insurance, Old Age Survivors Disability Insurance, and federal and State income taxes withheld, to designated governmental agencies.

H. Facility Construction or Repair

1. When applicable for purposes of construction or repair of facilities, the Contractor shall comply with the provisions contained in the following and shall include such provisions in any applicable agreements with subcontractors:
 - a. Copeland "Anti-Kickback" Act (18 USC 874, 40 USC 276c) (29 CFR, Part 3).
 - b. Davis-Bacon Act (40 USC 276a to 276a-7) (29 CFR, Part 5).
 - c. Contract Work Hours and Safety Standards Act (40 USC 327-333) (29 CFR, Part 5, 6, 7, 8).
 - d. Executive Order 11246 of September 14, 1965, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 of October 13, 1967, as supplemented in Department of Labor Regulations (41 CFR, Part 60).
2. The Contractor shall not use payments for construction, renovation, alteration, improvement, or repair of privately-owned property which would enhance the owner's value of such property to the benefit of the owner except where permitted by law or with prior approval by the Department.
3. The Contractor or subcontractor must obtain prior written approval from the Department before making any fund or budget transfers between construction and nonconstruction.

**Special Terms and Conditions - Exhibit D
Nutrition Stimulus**

ARTICLE II. ASSURANCES (Continued)

I. Contracts in Excess of \$100,000

If all funding provided herein exceeds \$100,000, the Contractor shall comply with all applicable orders or requirements issued under the following laws:

1. Clean Air Act, as amended (42 USC 1857).
2. Clean Water Act, as amended (33 USC 1368).
3. Federal Water Pollution Control Act, as amended (33 USC 1251, et seq.).
4. Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738).
5. Public Contract Code Section 10295.3.

J. Debarment, Suspension, and Other Responsibility Matters

1. The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors:
 - a. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d. Have not within a three-year period preceding this Agreement had one or more public transactions (federal, State, or local) terminated for cause or default.
 - e. Contractor shall report immediately to the Department in writing any incidents of alleged fraud and/or abuse by either Contractor or

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ARTICLE II. ASSURANCES (Continued)

Contractor's subcontractor. Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by the Department.

2. The Contractor agrees to timely execute any and all amendments to this Agreement or other required documentation relating to their subcontractors debarment/suspension status.

K. Agreement Authorization

1. If a public entity, the Contractor shall submit to the Department a copy of the resolution, order, or motion referencing this Agreement number authorizing execution of this Agreement. If a private nonprofit entity, the Contractor shall submit to the Department an authorization by the board of directors to execute this Agreement, referencing this Agreement number.
2. These documents must also identify the action taken.
3. Documentation in the form of a resolution, order, or motion by the Governing Board of the Area Agency on Aging is required for the original and each subsequent amendment to this Agreement. This requirement may also be met by a single resolution from the Governing Board of the Contractor authorizing the Area Agency on Aging Director or designee to execute the original and all subsequent amendments to this Agreement.

L. Contractor's Staff

1. The Contractor shall maintain adequate staff to meet the contractor's obligations under this Agreement.
2. This staff shall be available to the State for training and meetings which the State may find necessary from time to time.

M. Corporate Status

1. The Contractor shall be a public or private nonprofit entity or Joint Powers Agreement (JPA). If a private nonprofit corporation or JPA, the Contractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
2. The Contractor shall ensure that any subcontractors providing services under this Agreement shall be of sound financial status. Any private, subcontracting corporation or JPA shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.

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ARTICLE II. ASSURANCES (Continued)

3. Failure to maintain good standing by the contracting corporation or JPA shall result in suspension or termination of this Agreement with the Department until satisfactory status is restored. Failure to maintain good standing by a subcontracting corporation or JPA shall result in suspension or termination of the subcontract by the Contractor until satisfactory status is restored.

N. Lobbying Certification

The Contractor, by signing this Agreement, hereby certifies to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subgrants, and contracts under grants, loans, and cooperative agreements which exceed \$100,000) and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by 31 USC 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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ARTICLE III. AGREEMENT

A copy of this Agreement is on file and available for inspection at the California Department of Aging, 1300 National Drive, Suite 200, Sacramento, California 95834.

ARTICLE IV. COMMENCEMENT OF WORK

Should the Contractor or subcontractor begin work in advance of receiving notice that this Agreement is approved, that work may be considered as having been performed at risk as a mere volunteer and may not be reimbursed or compensated.

ARTICLE V. SUBCONTRACTS OR VENDOR AGREEMENTS

- A. The Contractor shall satisfy, settle, and resolve all administrative, programmatic, and fiscal aspects of the program(s), including issues that arise out of any subcontracts and/or vendor agreements, and shall not delegate or contract these responsibilities to any other entity. This includes, but is not limited to, disputes, claims, protests of award, or other matters of a contractual nature.
- B. In the event any subcontractor is utilized by the Contractor for any portion of this Agreement, the Contractor shall retain the prime responsibility for all the terms and conditions set forth, including but not limited to, the responsibility for preserving the State's copyrights and rights in data in accordance with Article XIX, of this exhibit, for handling property in accordance with Article VII of this exhibit, and ensuring the keeping of, access to, availability, and retention of records of subcontractors in accordance with Article VI of this exhibit.
- C. Funds for this Agreement shall not be obligated in subcontracts and/or vendor agreements for services beyond the ending date of this Agreement, unless all funding under this Agreement is appropriated without regard for fiscal year, and the Department has agreed in writing to permit the specific expenditure for a specified period of time.
- D. The Contractor shall have no authority to contract for, or on behalf of, or incur obligations on behalf of the State.
- E. Copies of subcontracts, vendor agreements, Memorandums and/or Letters of Understanding shall be on file with the Contractor and shall be made available for review at the request of the Department.
- F. The Contractor shall monitor the insurance requirements of its subcontractors and/or vendors in accordance with Article XI, Section E of this exhibit.
- G. The Contractor shall require language in all subcontractor and/or vendor agreements to indemnify, defend, and save harmless the Contractor, its officers, agents, and employees from any and all claims and losses accruing to or

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ARTICLE V. SUBCONTRACTS AND/OR VENDOR AGREEMENTS (Continued)

resulting from any subcontractors, vendors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with any activities performed for which funds from this Agreement were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the subcontractor and/or vendor in the performance of this Agreement.

- H. The Contractor shall ensure that the subcontractor and/or vendor will complete all reporting and expenditure documents requested by the Department. These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by the Department.
- I. Prior to the awarding of a subcontract to any for-profit entity, the Contractor shall submit the following to the Department for review and approval (per CCR, Title 22, Division 1.8, Section 7362):
 - 1. The RFP or IFB.
 - 2. All bid proposals received.
 - 3. The proposal or bid evaluation documentation, along with the Contractor's rationale for awarding the subcontract to a for-profit entity.

Where a program may be subcontracted to a for-profit organization, the Contractor should include in its contract with the for-profit entity a requirement for performance of a program specific audit of the subcontracted program by an independent audit firm.

- J. The Contractor shall require the subcontractor to maintain adequate staff to meet the subcontractor's Agreement with the Contractor. This staff shall be available to the State for training and meetings which the State may find necessary from time to time.
- K. If a private nonprofit corporation, the subcontractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
- L. The Contractor shall refer to the guidance in OMB Circular A-133 Section 210 in making a determination of whether a subcontractor and/or vendor relationship exists. If a vendor relationship exists then the Contractor shall follow the Procurement requirements in the applicable OMB Circular and record the vendor expenditures on Page 1 of the closeout under consultant or equipment costs if the Contractor purchased services or property respectively.

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ARTICLE VI. RECORDS

- A. The Contractor shall maintain complete records (which shall include, but not be limited to, accounting records, contracts, agreements, reconciliation of the "Financial Closeout Report" to the audited financial statements, a summary worksheet of results from the audit resolutions performed for all subcontractors with supporting documentation, letters of agreement, insurance documentation in accordance with this Article, Memorandums and/or Letters of Understanding, patient or client records, and electronic files) of its activities and expenditures hereunder in a form satisfactory to the State and shall make all records pertaining to this Agreement available for inspection and audit by the State or its duly authorized agents, at any time during normal business hours. All such records must be maintained and made available by the Contractor; (a) until an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by the Department's Audit Branch, (b) for such longer period, if any, as is required by applicable statute, by any other clause of this Agreement, or by Sections B, and C of this Article, and (c) for such longer period as the Department deems necessary.
- B. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for the same periods as specified in Section A above. The Contractor shall ensure that any resource directories and all client records remain the property of the Department upon termination of this Agreement, and are returned to the Department or transferred to another Contractor as instructed by the Department.
- C. In the event of any litigation, claim, negotiation, audit exception, or other action involving the records, all records relative to such action shall be maintained and made available until every action has been cleared to the satisfaction of the State and so stated in writing to the Contractor.
- D. Adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures reimbursed by the State under this Agreement. If the allowability of expenditures cannot be determined because records or documentation of the Contractor are nonexistent or inadequate according to Generally Accepted Accounting Principles and Procedures, the expenditures will be questioned in the audit and may be disallowed by the State during the audit resolution process.
- E. After the authorized period has expired, confidential records shall be shredded and disposed of in a manner that will maintain confidentiality.

ARTICLE VII. PROPERTY

- A. Unless otherwise provided for in this Article, property refers to all assets, capitalized or noncapitalized, used in operation of this Agreement.

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ARTICLE VII. PROPERTY (Continued)

1. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, and intangibles, etc .
 2. Property does not include consumable office supplies such as paper, pencils, typing ribbons, file folders, etc.
- B. Property meeting all of the following criteria are subject to the capitalization requirements. Such property must:
1. Have a normal useful life of at least 1 year;
 2. Have a unit acquisition cost of at least \$5000 (e.g., four identical assets which cost \$3000 each, for a \$12,000 total would not meet this capitalization requirement); and
 3. Be used to conduct business under this Agreement.
- C. Noncapitalized property are those items which do not meet all three requirements in this Article, Section B above.
- D. Additions, improvements, and betterments to assets meeting all of the conditions in Section B above must be capitalized. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments enhance the condition of an asset (e.g., extend life, increase service capacity, and lower operating costs). Examples of assets that might be improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.
- E. Intangibles are property which lack physical substance but give valuable rights to the owner and can be capitalized or noncapitalized. Examples of intangible property include patents, copyrights, leases, and computer software. By contrast, hardware consists of tangible equipment (e.g., computer printer, terminal, etc.).
- Costs include all amounts incurred to acquire and to ready the intangible asset for its intended use. Typical intangible property costs include the purchase price, legal fees, and other costs incurred to obtain title to the asset.
- F. The Contractor shall record the following information when property is acquired:
1. Date acquired;
 2. Property description (include model number);
 3. Property identification number

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ARTICLE VII. PROPERTY (Continued)

4. Serial number
5. Cost or other basis of valuation;
6. Fund source; and
7. Rate of depreciation (or depreciation schedule), if applicable.

The Contractor shall keep track of property purchased with Contract funds, whether capitalized or not. The Contractor shall maintain and submit to the Department annually with the Closeout, a current inventory of property furnished or purchased by either the Contractor or the subcontractor with funds awarded under the terms of this Agreement or any predecessor agreement for the same purpose. The Contractor shall use the Report of Project Property Furnished/Purchased with Agreement Funds (CDA 32), unless otherwise directed by the Department.

- G. Prior to disposal of any property purchased by the Contractor or the subcontractor with funds from this Agreement, the Contractor must obtain approval from the Department regardless of the acquisition value. Disposition, which includes sale, trade-in, discarding, or transfer to another agency may not occur until approval is received from the Department. The Contractor shall use the Request to Dispose of Property (CDA 248) to dispose of property.
- H. The Contractor shall immediately investigate and within five (5) days fully document the loss, destruction, or theft of such property.
- I. The State reserves title to all State-purchased or financed property not fully consumed in the performance of this Agreement, unless otherwise required by federal law or regulations or as otherwise agreed by the parties.
- J. Contractor shall exercise due care in the use, maintenance, protection, and preservation of such property during the period of the project, and shall assume responsibility for replacement or repair of such property during the period of the project, until the Contractor has complied with all written instructions from the Department regarding the final disposition of the property.
- K. In the event of the Contractor's dissolution or upon termination of this Agreement, the Contractor shall provide a final property inventory to the State. The State reserves the right to require the Contractor to transfer such property to another entity, or to the State.
- L. To exercise the above right, no later than 120 days after termination of the Agreement or notification of the Contractor's dissolution the State will issue specific written disposition instructions to the Contractor.

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ARTICLE VII. PROPERTY (Continued)

- M. The Contractor shall use the property for the purpose for which it was intended under the Agreement. When no longer needed for that use, the Contractor shall use it, if needed, and with written approval of the State for other purposes in this order:
 - 1. Another Department program providing the same or similar service; or
 - 2. Another Department-funded program.
- N. The Contractor may share use of the property and equipment or allow use by other programs, upon written approval of the Department. As a condition of the approval, the Department may require reimbursement under this Agreement for its use.
- O. The Contractor or subcontractor shall not use equipment or supplies acquired under this Agreement with federal and/or State monies for personal gain or to usurp the competitive advantage of a privately-owned business entity.
- P. If purchase of equipment is a reimbursable item, the equipment to be purchased will be specified in the budget.
- Q. The Contractor shall include the provisions contained in this Article in all its subcontracts awarded under this Agreement.

ARTICLE VIII. ACCESS

The Contractor shall provide access to the federal or State agency, Bureau of State Audits, the Controller General of the United States, or any of their duly authorized federal or State representatives to any books, documents, papers, records, and electronic files of the Contractor or subcontractor which are directly pertinent to this specific Agreement for the purpose of audit, examination, excerpts, and transcriptions. The Contractor shall include this requirement in its subcontracts.

ARTICLE IX. MONITORING, ASSESSMENT, AND EVALUATION

- A. Authorized State representatives shall have the right to monitor, assess, and evaluate the Contractor's performance pursuant to this Agreement. Said monitoring, assessment, and evaluation may include, but is not limited to, audits, inspections of project premises, inspection of food preparation sites, and interviews of project staff and participants.
- B. The Contractor shall cooperate with the State in the monitoring, assessment, and evaluation processes, which include making any Administrative program and fiscal staff available during any scheduled process.

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ARTICLE X. AUDITS

- A. Contractors that expend \$500,000 or more in Federal Awards shall arrange for an audit to be performed as required by the Single Audit Act of 1984, Public Law 98-502, Single Audit Act Amendments of 1996, Public Law 104-156, and Office of Management and Budget (OMB) Circular A-133, and a copy submitted to the:

California Department of Aging
Attention: Audit Branch
1300 National Drive, Suite 200
Sacramento, California 95834

The copy shall be submitted within the earlier of 30 days after receipt of the auditor's report or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency.

The contractor shall ensure that State-Funded expenditures are displayed discretely along with the related federal expenditures in the single audit report's "Schedule of Expenditures of Federal Awards" (SEFA) under the appropriate Catalog of Federal Domestic Assistance (CFDA) number as referenced in Section B of this Article.

For State contracts that do not have CFDA numbers, the Contractor shall ensure that the State-funded expenditures are discretely identified in the SEFA by the appropriate program name, identifying grant/contract number, and as passed-through the California Department of Aging.

- B. The Contractor shall identify the CFDA titles and numbers to the independent auditor conducting the organization's single audit along with each of its subrecipients. The funding source (Federal Grantor) for the following programs is the U.S. Department of Health and Human Services.

93.705	Home-Delivered Meals ARRA
93.707	Congregate Meals ARRA

- C. The Contractor shall perform a reconciliation of the "Financial Closeout Report" to the audited financial statements. The reconciliation shall be maintained and made available for Department review.
- D. The Contractor shall have the responsibility for resolving its contracts with subcontractors to determine whether funds provided under this Agreement are expended in accordance with applicable laws, regulations, and provisions of contracts or agreements.

Contract resolution includes:

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ARTICLE X. AUDITS (Continued)

1. Ensuring that a subcontractor expending \$500,000 or more in aggregate in Federal Awards during the subcontractor's fiscal year has met the audit requirements of OMB Circular A-133 as summarized in D;
 2. Issuing a management decision on audit findings within six months after receipt of the subcontractor's single audit report and ensuring that the subcontractor takes appropriate and timely corrective action;
 3. Reconciling expenditures reported to the Department to the amounts identified in the single audit or other type of audit, if the subcontractor was not subject to the single audit requirements. For a subcontractor who was not required to obtain a single audit and who did not obtain another type of audit, the reconciliation of expenditures reported to the Department must be accomplished through the performance of alternative procedures (e.g., expense verification reviews/fiscal monitoring assessments);
 4. When alternative procedures are used, the Contractor shall perform financial management system testing per existing federal requirements (45 CFR, Subpart C, Part 92.20 and 45 CFR, Part 74.21) which state in part that financial reporting must be accurate, current, and complete; and, accounting records must adequately identify the source and application of funds and must be supported by source documentation. The Contractor shall document system and expense testing to show an acceptable level of reliability, including a review of actual source documents; and
 5. Determining whether the results of the reconciliations performed necessitate adjustment of the Contractor's own records.
- E. The Contractor shall ensure that the subcontractor single audit reports meet OMB Circular A-133 requirements:
1. Performed timely – not less frequently than annually and a report submitted timely. The audit is required to be submitted within 30 days after receipt of the auditor's report or nine months after the end of the audit period, whichever occurs first.
 2. Properly procured – use procurement standards provided for in OMB Circular A-133 and provide maximum opportunities to small and minority audit firms.
 3. Performed in accordance with Generally Accepted Government Auditing Standards – shall be performed by an independent auditor and be organization-wide.

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ARTICLE X. AUDITS (Continued)

4. All inclusive – includes an opinion (or disclaimer of opinion) of the financial statements; a report on internal control related to the financial statements and major programs; an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements; and the schedule of findings and questioned costs.
 5. Performed in accordance with provisions applicable to this program as identified in OMB Circular A-133 Compliance Supplement.
- F. Requirements identified in D of this Article shall be included in contracts/agreements with the subcontractor. Further, the subcontractor shall be required to include in its contract with the independent auditor that the auditor will comply with all applicable audit requirements/standards, the Department shall have access to all audit reports and supporting work papers, and the Department has the option to perform additional work, as needed.
- G. The contractor shall prepare a summary worksheet of results from the contract resolutions performed of all subcontractors. The summary worksheet shall include, but not limited to, contract amount; amount resolved; variances; whether an audit was relied upon or the Contractor performed an independent expense verification review (alternative procedures) of the subcontractor in making a determination; whether audit findings were issued; and, if applicable, issuance date of the management letter; and any communication or follow-up performed to resolve the findings.
- H. Unless prohibited by law, the cost of audits completed in accordance with provisions of the Single Audit Act Amendments of 1996, are allowable charges to Federal Awards. The cost may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principle circulars.
- I. Contractor may not charge to Federal Awards the cost of any audit under the Single Audit Act Amendments of 1996 not conducted in accordance with the Act. Contractor may not charge to Federal Awards the cost of auditing a non-federal entity which has Federal Awards expended of less than \$500,000 per year, and is thereby exempted under OMB Circular A-133, Subsection __200(d). However, this does not prohibit the Contractor from charging Federal Awards for the cost of conducting a limited-scope audit to monitor its subcontractor to address compliance requirements provided the subcontractor is not required to obtain a single audit. These costs must be charged as an Administrative expense of the Contractor.
- J. The Contractor shall cooperate with and participate in any further audits which may be required by the State.

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ARTICLE XI. INSURANCE

- A. Prior to commencement of any work under this Agreement, the Contractor shall provide for the term of this Agreement, the following insurance:
1. General liability of not less than \$1,000,000 per occurrence for bodily injury and property damage combined. Higher limits may be required by the Department in cases of higher than usual risks.
 2. Automobile liability including non-owned auto liability, of not less than \$1,000,000 for volunteers and paid employees providing services supported by this Agreement.
 3. If applicable, contractors and subcontractors shall comply with the Public Utilities Commission (PUC) General Order No. 115-F which requires higher levels of insurance for charter-party carriers of passengers and is based on seating capacity as follows:

\$750,000 if seating capacity is under 8
\$1,500,000 if seating capacity is 8 – 15
\$5,000,000 if seating capacity is over 15

unless otherwise amended by future regulation.
 4. Professional liability of not less than \$1,000,000 as it appropriately relates to the services rendered. Coverage shall include medical malpractice and/or errors and omissions.
- B. The insurance will be obtained from an insurance company acceptable to the Department of General Services, Office of Risk and Insurance Management, or be provided through partial or total self-insurance acceptable to the Department of General Services.
- C. Evidence of insurance shall be in a form and content acceptable to the Department of General Services, Office of Risk and Insurance Management. Insurance obtained through commercial carriers shall meet the following requirements:
1. The Certificate of Insurance shall provide that the insurer will not cancel the insured's coverage without thirty (30) days prior written notice to the State, or ten (10) days written notice if the reason for cancellation is for non-payment of insurance premium.
 2. The Certificate of Insurance shall provide the statement: "The Department of Aging, State of California, its officers, agents, employees, and servants are included as additional insureds, with respect to work

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ARTICLE XI. INSURANCE (Continued)

performed for the State of California under this Agreement." Professional liability coverage is exempt from this requirement.

3. The Department shall be named the certificate holder and the address must be listed on the certificate.
- D. The insurance provided herein shall be in effect at all times during the term of this Agreement. In the event the insurance coverage expires during the term of this Agreement, the Contractor agrees to provide the Department, at least thirty (30) days prior to the expiration date, a new certificate of insurance evidencing insurance coverage as provided herein for a period not less than the remaining agreement term or for a period not less than one (1) year. In the event the Contractor fails to keep in effect at all times said insurance coverage, the Department may, in addition to any other remedies it may have, terminate this Agreement.
- E. The Contractor shall require its subcontractors or vendors under this Agreement, other than units of local government which are similarly self-insured, to maintain adequate insurance coverage for general liability, worker's compensation liabilities, and if appropriate, auto liability including non-owned auto and professional liability, and further, the Contractor shall require its subcontractors and vendors to hold the Contractor harmless. The subcontractor's Certificate of Insurance shall also name the Contractor, not the State, as the certificate holder and additional insured. The Contractor shall maintain certificates of insurance for all its subcontractors.
- F. A copy of each appropriate Certificate of Insurance referencing this Agreement Number, or letter of self-insurance, shall be submitted to the Department with this Agreement.
- G. The Contractor shall be insured against liability for Worker's Compensation or undertake self-insurance in accordance with the provisions of the Labor Code and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement (Labor Code Section 3700).

ARTICLE XII. TERMINATION

A. Termination Without Cause

The Department may terminate performance of work under this Agreement without cause in whole or in part, if the Department determines that a termination is in the State's best interest. The Department may terminate the Agreement upon 90 days written notice to the Contractor. The Notice of Termination shall specify the extent of the termination and shall be effective 90 days from the delivery of the Notice of Termination. The parties agree that for the terminated

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ARTICLE XII. TERMINATION (Continued)

portion of the Agreement, the remainder of Agreement shall be deemed to remain in effect and is not void. Upon termination of the Agreement, the Contractor shall submit to the Department a Transition Plan as specified in Exhibit E.

B. Termination for Cause

The Department may terminate for cause the performance of work under this Agreement. The Department may terminate the Agreement upon 30 days written notice to the Contractor. The Notice of Termination shall be effective 30 days from the delivery of the Notice of Termination unless the ground for termination is due to threat to life, health or safety of the public and in that case the termination shall take effect immediately. The grounds for termination for cause shall include but not limited to the following:

1. In case of threat of life, health or safety of the public. (Termination of Agreement shall be effective immediately.)
2. A violation of the law or failure to comply with any condition of this Agreement.
3. Inadequate performance or failure to make progress so as to endanger performance of this Agreement.
4. Failure to comply with reporting requirements.
5. Evidence that the Contractor is in an unsatisfactory financial condition as determined by an audit of the Department or evidence of a financial condition that endangers performance of this Agreement and/or the loss of other funding sources.
6. Delinquency in payment of taxes or payment of costs for performance of this Agreement in the ordinary course of business.
7. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the Contractor.
8. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income.

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ARTICLE XII. TERMINATION (Continued)

9. The commission of an act of bankruptcy.
10. Finding of debarment or suspension, Article II J.
11. The Contractor's organizational structure has materially changed.
12. The Department determines that a Contractor may be considered a "high risk" agency as described in 45 CFR 92.12 local government and 45 CFR 74.14 for non-profit organizations. If such a determination is made, the Contractor may be subject to special conditions or restrictions.
13. Funding is reduced or deleted for any State fiscal year by the Department of Finance, Legislature, or Congress.

C. Contractor's Obligation After Notice of Termination

After receipt of a Notice of Termination, and except as directed by the Department, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any funds due under this clause.

The Contractor shall:

1. Stop work as specified in the Notice of Termination.
2. Place no further subcontracts for materials, or services, except as necessary to complete the continued portion of the contract.
3. Terminate all subcontracts to the extent they relate to the work terminated.
4. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts (the approval or ratification of which will be final for purposes of this clause).

D. Effective Date

Termination of this Agreement, shall take effect immediately in the case of an emergency such as threat to life, health, or safety of the public. In all other cases, the termination shall take effect 30 days subsequent to written notice to the Contractor. The notice shall describe the action being taken by the Department, the reason for such action and, any conditions of the termination, including the date of termination. Said notice shall also inform the Contractor of its right to appeal such decision to the Department and the procedure for doing so.

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ARTICLE XII. TERMINATION (Continued)

E. Notice of Intent to Terminate by Contractor

Contractor may give the Department 30 days written Notice of Intent to Terminate. In such instance, Contractor shall allow the Department up to 180 days to transition services. Unless mutually agreed upon, the Contractor does not have the authority to terminate the Agreement. The notice of intent to terminate shall include the reason for such action and the anticipated last day of work. Upon receipt of such notice, the Department will work with the Contractor to terminate the Agreement.

F. In the event of a termination notice, the Department will present written notice to the Contractor of any condition, such as, but not limited to, transfer of clients, care of clients, return of unspent funds, and disposition of property, which must be met prior to termination.

ARTICLE XIII. REMEDIES

The Contractor agrees that any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the Department as a result of breach of this Agreement by the Contractor, whether such breach occurs before or after completion of the project.

ARTICLE XIV. DISSOLUTION OF ENTITY

The Contractor shall notify the Department immediately of any intention to discontinue existence of the entity or to bring an action for dissolution.

ARTICLE XV. REVISIONS OR MODIFICATIONS

- A. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.**
- B. The State reserves the right to revise, waive, or modify the Agreement to reflect any restrictions, limitations, or conditions enacted by Congress or the Legislature or as directed by the Executive Branch of State Government.**

ARTICLE XVI. NOTICES

- A. Any notice to be given hereunder by either party to the other may be effected by personal delivery in writing or by registered or certified mail, overnight mail, postage prepaid, return receipt requested, or overnight mail, provided Contractor retains receipt, and shall be communicated as of actual receipt.**

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ARTICLE XVI. NOTICES (Continued)

- B. Any notice given to the CDA for a contractor's change of legal name, main address, or name of Director shall be addressed to the Director of the Department on the contractor's letterhead.
- C. All other notices with the exception of those identified in Article VII. B. shall be addressed to the California Department of Aging, AAA Based Teams, 1300 National Drive, Suite 200, Sacramento, California 95834. Notices mailed to the Contractor shall be to the address indicated on the coversheet of this Agreement.
- D. Either party may change its address by written notice to the other party in accordance with this Article.

ARTICLE XVII. DEPARTMENT CONTACT

- A. The name of the Department's contact to request revisions, waivers, or modifications affecting this Agreement, will be provided by the State to the Contractor upon full execution of this Agreement.
- B. The contractor shall submit the name of its Agency Contract Representative (ACR), for this Agreement by submitting an Agency Contract Representative form to the CDA's Contracts and Business Services Section. This form requires the ACR's address, phone number, e-mail address, and FAX number to be included on this form. For any change in this information, the Contractor shall submit an amended Agency Contract Representative form to the same address. This form may be requested from the Contracts and Business Services Section.

ARTICLE XVIII. Information Integrity and Security

A. Information Assets

The Contractor shall have in place operational policies, procedures, and practices to protect State information assets, i.e., public, confidential, sensitive and/or personal information as specified in State Administrative Manual, Section 4841.2., GC Section 11019, Department of Finance (DOF) Management Memo 06-12, and DOF Budget Letter 06-34.

Information assets include (but are not limited to):

- Information collected and/or accessed in the administration of the State programs and services.
- Information stored in any media form, paper or electronic.

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ARTICLE XVIII. Information Integrity and Security (Continued)

B. Encryption on Portable Computing Devices

The Contractor is required to encrypt (or use an equally effective measure), any data collected under this Agreement that is confidential, sensitive, and/or personal including data stored on portable computing devices (including but not limited to, laptops, personal digital assistants, and notebook computers) and/or portable electronic storage media (including but not limited to, discs and thumb/flash drives, portable hard drives).

C. Disclosure

1. The Contractor shall ensure that personal, sensitive and confidential information is protected from inappropriate or unauthorized access or disclosure in accordance with applicable laws, regulations and State policies. The requirement to protect information shall remain in force until superseded by laws, regulations or policies.
2. The Contractor shall protect from unauthorized disclosure names and other identifying information, concerning persons receiving services pursuant to this Agreement, except for statistical information not identifying any participant.
3. "Identifying information" shall include, but not be limited to, name, identifying number, social security number, state driver's license or state identification number, financial account numbers, symbol or other identifying characteristic assigned to the individual, such as finger or voice print or a photograph.
4. The Contractor shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
5. The Contractor shall not, except as otherwise specifically authorized or required by this Agreement or court order, disclose any identifying information obtained under the terms of this Agreement to anyone other than CDA without prior written authorization from CDA. The Contractor may be authorized, in writing, by a participant to disclose identifying information specific to the authorizing participant.
6. The Contractor may allow a participant to authorize the release of information to specific entities, but shall not request or encourage any participant to give a blanket authorization or sign a blank release, nor shall the Contractor accept such blanket authorization from any participant.

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ARTICLE XVIII. Information Integrity and Security (Continued)

D. Training/Education

1. The Contractor must provide ongoing education and training, at least annually, to all employees and subcontractors who handle personal, sensitive or confidential information. Contractor employees, subcontractors, and volunteers must complete the required Security Awareness Training module located at www.aging.ca.gov within 30 days of the start date of the Contract/Agreement or within 30 days of the start date of any new employee, subcontractor or volunteer. The Contractor must maintain certificates of completion on file and provide them to CDA upon request. Training may be provided on an individual basis or in groups. A sign-in sheet is acceptable documentation for group training in lieu of individual certificates. If internet access is not available, a hardcopy of the training module may be provided to employees and/or volunteers for their completion.
2. Contractor may substitute CDA's Security Awareness Training program with its own Security Training provided such training meets or exceeds CDA's training requirement. Contractors/Vendors shall maintain documentation of training and education provided to their staff, volunteers, and/or subcontractors.
3. All employees and volunteers who handle personal, sensitive or confidential information relating to CDA's programs must participate in Security Awareness Training.

E. Health Insurance Portability and Accountability Act (HIPAA)

The Contractor agrees to comply with the privacy and security requirements of the HIPAA to the extent applicable and to take all reasonable efforts to implement HIPAA requirements. Contractor will make reasonable efforts to ensure that subcontractors comply with the privacy and security requirements of HIPAA.

F. Contractor Confidentiality Statement

The Contractor shall sign and return a Contractor/Vendor Confidentiality Statement CDA 1024 form with this Agreement. This is to ensure that Contractor/Vendors are aware of, and agree to comply with, their obligations to protect CDA information assets from unauthorized access and disclosure.

G. Security Incident Reporting

A security incident occurs when CDA information assets are accessed, modified, destroyed, or disclosed without proper authorization, or are lost, or stolen. The

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ARTICLE XVIII. Information Integrity and Security (Continued)

Contractor must report all security incidents to the appropriate CDA Program Manager immediately upon detection. A Security Incident Report form (CDA 1025) must be submitted to the CDA Information Security Officer within five (5) business days of the date the incident was detected.

H. Notification of Security Breach to Data Subjects

1. Notice must be given by the contractor or subcontractor to any data subject whose personal information could have been breached.
2. Notice must be given in the most expedient time possible and without unreasonable delay except when notification would impede a criminal investigation, or when necessary measures to restore system integrity are required.
3. Notice may be provided in writing, electronically, or by substitute notice in accordance with State law, regulation, or policy.

I. Software Maintenance

The Contractor shall apply security patches and upgrades and keep virus software up-to-date on all systems on which State data may be used.

J. Provisions of this Article

The provisions contained in this Article shall be included in all contracts of both the contractor and its subcontractors.

ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA

A. Copyrights

1. If any material funded by this Agreement is subject to copyright, the State reserves the right to copyright such material and the Contractor agrees not to copyright such material, except as set forth in subdivisions (b) and (c) of this section.
2. The Contractor may request permission to copyright material by writing to the Director of the Department. The Director shall consent to or give the reason for denial to the Contractor in writing within sixty (60) days of receipt of the request. If the material is copyrighted with the consent of the Department, the State reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, prepare derivative works, publish, distribute and use such materials, in whole or in part, and to authorize others to do so, provided written credit is given the author.

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ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA (Continued)

3. 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.

B. Rights in Data

1. The Contractor shall not publish or transfer any materials, as defined in item 2 below, produced or resulting from activities supported by this Agreement without the express written consent of the Director of the Department. That consent shall be given or the reasons for denial shall be given and any conditions under which it is given or denied within thirty (30) days after the written request is received by the Department. The Department may request a copy of the material for review prior to approval of the request. This subsection is not intended to prohibit contractors from sharing identifying client information authorized by the participant or summary program information which is not client-specific.
2. As used in this Agreement, the term "subject data" means writings, sound recordings, pictorial reproductions, drawings, designs or graphic representations, procedural manuals, forms, diagrams, workflow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are first produced or developed under this Agreement. The term does not include financial reports, cost analyses, and similar information incidental to contract administration, or the exchange of that information between Area Agencies on Aging to facilitate uniformity of contract and program administration on a statewide basis.
3. Subject only to the provisions of Article XVIII and Article XIX of this Exhibit, the State may use, duplicate, or disclose in any manner, and have or permit others to do so subject to State and federal law all subject data delivered under this Agreement.
4. Materials published or transferred by Contractor shall: (a) state "The materials or product were a result of a project funded by a contract with the California Department of Aging"; (b) give the name of the entity, the address, and telephone number at which the supporting data is available; and (c) include a statement that "The conclusions and opinions expressed may not be those of the California Department of Aging and that the publication may not be based upon or inclusive of all raw data."

Additional Provisions—Exhibit E
Nutrition Stimulus

ARTICLE I. ASSURANCES SPECIFIC TO THE NUTRITION STIMULUS PROGRAM

A. General Assurances. The Contractor shall assure that the following conditions are met:

1. Services are provided only to the defined Eligible Service Population.
2. The Contractor shall comply with the standards and guidelines for procurement of supplies, equipment, construction, and services as provided in 45 CFR, Part 92.36, "Procurement Standards."
3. Means tests shall not be used by any Contractor for any meal provided by Nutrition Stimulus funds.
4. Services shall not be denied to any Nutrition Stimulus or Title III C client that does not contribute toward the cost of services received.
5. Methods used to solicit voluntary contributions for Nutrition Stimulus or Title III C services shall be non-coercive.
6. Donation letters sent to clients for Nutrition Stimulus or Title III C services shall stipulate that contributions are voluntary and not required to receive service.
7. Cost Sharing shall not be implemented for any Nutrition Stimulus or Title III C service until so notified by the CDA.
8. Proof of age or citizenship shall not be required as a condition of receiving services.

ARTICLE II. REPORTING PROVISIONS

- A. The Contractor shall submit program performance reports for the Nutrition Stimulus funds.
- B. The Contractor shall assure that all performance data submitted is timely, complete, accurate, and verifiable using the Contractor approved reporting procedures.
- C. Reporting conditions are yet to be determined and will be as directed by CDA.

ARTICLE III. APPEAL PROCESS

- A. Contractor may appeal an adverse determination as defined in Title 22 CCR, Section 7702 using the appeal process established by the CDA in Title 22 CCR, Sections 7700 through 7710. Such appeal shall be filed within thirty (30) days of CDA's notice of adverse determination.

ARTICLE III. APPEAL PROCESS (Continued)

- B. Subcontractors of the Contractor may appeal the Contractor's final adverse determination relating to Nutrition Stimulus funds using the appeal process established in Title 22 CCR, Sections 7700 through 7710.
- C. Appeal costs or costs associated with any court review are not reimbursable.

ARTICLE IV. TRANSITION PLAN

- A. The Contractor shall submit a transition plan to the State within 15 days of delivery of a written Notice of Termination (Pursuant to Article XII, Exhibit D of this Agreement) . The transition plan must be approved by the State and shall at a minimum include the following:
 - 1. Description of how clients will be notified about the change in their service provider.
 - 2. A plan to communicate with other organizations that can assist in locating alternative services.
 - 3. A plan to inform community referral sources of the pending termination of the service and what alternatives, if any, exist for future referrals.
 - 4. A plan to evaluate clients in order to assure appropriate placement.
 - 5. A plan to transfer any confidential medical and client records to a new contractor.
 - 6. A plan to dispose of confidential records in accordance with applicable laws and regulations.
 - 7. A plan for adequate staff to provide continued care through the term of the contract.
 - 8. A full inventory and plan to dispose or, transfer, or return to the State all equipment purchased during the entire operation of the contract.
 - 9. Additional information as necessary to effect a safe transition of clients to other community service providers.
- B. Contractor shall implement the transition plan as approved by the State. The State will monitor the Contractor's progress in carrying out all elements of the transition plan.

ARTICLE IV. TRANSITION PLAN (Continued)

- C. If the Contractor fails to provide and implement a transition plan as required by Article XII of Exhibit D of this Agreement, the Contractor will implement a transition plan submitted by CDA to the Contractor following the Notice of Termination.

ARTICLE V. ARRA SPECIFIC TERMS AND CONDITIONS

- A. This Agreement is issued under the authority of the American Recovery and Reinvestment Act of 2009, P.L. 111-5. By receiving funds under this Agreement, the Contractor assures that it will carry out the project/program as authorized and will comply with the terms and conditions and other requirements of this Agreement.
- B. Buy American - Use of American Iron, Steel, and Manufactured Goods
Contractors may not use any funds obligated under this Agreement for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States unless HHS waives the application of this provision. (ARRA Sec.1605)
- C. Wage Rate Requirements
[This term and condition shall not apply to tribal contracts entered into by the Indian Health Service funded with this appropriation. (ARRA Title VII—Interior, Environment, and Related Agencies, Department of Health and Human Services, Indian Health Facilities)] Subject to further clarification issued by the Office of Management and Budget, and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this award shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code. (ARRA Sec. 1606)
- D. Preference for Quick Start Activities (ARRA)
In using funds from this Agreement for infrastructure investment, Contractors shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of ARRA.

ARTICLE V. ARRA SPECIFIC TERMS AND CONDITIONS (Continued)

Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit. (ARRA Sec. 1602)

- E. **Limit on Funds (ARRA)**
None of the funds appropriated or otherwise made available by the Nutrition Stimulus funds may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. (ARRA Sec. 1604)
- F. **Disclosure of Fraud or Misconduct**
Contractors awarded funds made available under the ARRA shall promptly refer to the HHS Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. The HHS Office of Inspector General can be reached at <http://www.oig.hhs.gov/fraud/hotline/>
- G. **ARRA: One-Time Funding**
Unless otherwise specified, ARRA funding to existent or new contractors should be considered one-time funding.
- H. **This Agreement is subject to the requirements of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Tribal Governments under Title 45 Code of Federal Regulations, Part 92.**