

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

DEPT: mg Aging & Veterans Services

BOARD AGENDA # *B-2

Urgent

Routine

AGENDA DATE June 30, 2009

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval of Older Americans Act (OAA) and Community-Based Service Programs (CBSP) contracts AP-0910-30, HI-0910-30, and TV-0910-30 with the California Department of Aging

STAFF RECOMMENDATIONS:

Authorize the Director of the Department of Aging and Veterans Services (Area Agency on Aging) (AAA) to sign contracts and any subsequent amendments to contracts AP-0910-30, HI-0910-30, and TV-0910-30 with the California Department of Aging for Fiscal Year 2009-2010.

FISCAL IMPACT:

Total funding available to provide Older Americans Act and Community-Based Service Programs for Fiscal Year 2009-2010 is \$2,301,687. Of this amount, \$1,948,200 will be utilized to provide services to seniors and caregivers and \$353,487 will go to the AAA for administration and oversight of the programs. The minimum required County match for the Area Agency on Aging's administrative allowance is \$195,926. These amounts have been included in the 2009-2010 Proposed County Budget adopted by the Board of Supervisors on June 9, 2009.

BOARD ACTION AS FOLLOWS:

No. 2009-433

On motion of Supervisor O'Brien, 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.

DISCUSSION:

The Area Agency on Aging contracts with the California Department of Aging to provide Older Americans Act and Community-Based Service Programs for senior citizens in Stanislaus County through grant agreements with local service providers. The Area Agency on Aging is recognized by the federal Administration on Aging as the local agency for advocacy, planning, and program development on behalf of older persons in Stanislaus County.

The Area Agency on Aging is required to provide administrative guidance and oversight, monitoring, and technical assistance to the contracting service providers. Area Agency on Aging staff provides the following direct services for seniors: Information and Assistance; Program Development; Coordination; Linkages Program; Family Caregiver Support Program; Health Insurance Counseling Advocacy Program (HICAP); and Outreach through the InfoVan.

In addition, the following programs will be provided through contracts and / or Memorandum of Understandings (MOUs) with local service providers: Legal Assistance, Ombudsman, Elder Abuse Prevention, Homemaker, Congregate and Home-Delivered Meals, Brown Bag, Employment, Alzheimer's Day Care, Disease Prevention and Health Promotion, and Assisted Transportation.

The total amount of the three contracts with the California Department of Aging is \$2,301,687. The contracts are: (1) Health Insurance Counseling and Advocacy Program (HICAP), \$244,641, (2) Title V Senior Community Service Employment Program (SCSEP), \$115,797, and (3) Federal Older Americans Act Titles III and VII Programs and State Older Californians Act Programs, \$1,941,249.

POLICY ISSUES:

By approving the grant agreements with the California Department of Aging, the Area Agency on Aging will be able to continue to provide aging services to residents 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 30, 2009

No. 2009-433

On motion of Supervisor O'Brien 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

THE FOLLOWING RESOLUTION WAS ADOPTED:

Item # *B-2

RESOLUTION APPROVING OLDER AMERICANS ACT (OAA) AND COMMUNITY-BASED SERVICE PROGRAMS (CBSP) CONTRACTS WITH THE CALIFORNIA DEPARTMENT OF AGING

BE IT RESOLVED that the Stanislaus County Board of Supervisors approve the Older Americans Act (OAA) and Community-Based Service Programs (CBSP) aging program contracts AP-0910-30, HI-0910-30, and TV-0910-30 with the California Department of Aging, and

BE IT FURTHER RESOLVED that the Stanislaus County Board of Supervisors authorizes the Director of the Department of Aging and Veterans Services (Area Agency on Aging) (AAA) to sign the AP-0910-30, HI-0910-30, and TV-0910-30 contracts and any subsequent amendments to these contracts with the California Department of Aging for Fiscal Year 2009-2010.

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 AP-0910-30 |
| REGISTRATION NUMBER |



- 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 |
- The term of this Agreement is: July 1, 2009 (or, if applicable, when approved by DGS, Office of Legal Services, whichever is later.) Through June 30, 2010
- The maximum amount of this Agreement is: **\$ 1,941,249.00**
One million, nine hundred forty-one thousand, two hundred forty-nine dollars
- 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 | 23 page(s) |
| Exhibit B – Budget Detail and Payment Provisions | 11 page(s) |
| Exhibit C* – General Terms and Conditions | GTC 307 |
| Check mark one item below as Exhibit D: | |
| <input checked="" type="checkbox"/> Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement) | 27 page(s) |
| <input type="checkbox"/> Exhibit - D* Special Terms and Conditions | |
| Exhibit E – Additional Provisions | 15 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 | | <input checked="" type="checkbox"/> Exempt per: Mello Grunland Older Californians Act |
| 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 | | |
| APPROVED AS TO FORM STANISLAUS COUNTY COUNSEL | | |

BY 

Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10

ARTICLE I. DEFINITIONS

A. DEFINITIONS SPECIFIC TO TITLE III AND TITLE VII PROGRAMS

1. **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.
2. **Title III B (Supportive Services)** means a variety of services including, but not limited to: personal care, homemaker, chore, adult day care/adult day health, case management, assisted transportation, transportation, legal assistance, information and assistance, outreach, and long-term care ombudsman advocacy, as defined in the National Aging Programs Information Systems (NAPIS) categories and National Ombudsman Reporting System (NORS).
3. **Program Development** means activities that either establish a new service or expand or integrate existing services.
4. **Coordination** means activities that involve the active participation of the Area Agency on Aging (AAA) staff to include liaison with non OAA-funded agencies and organizations for the purpose of avoiding duplication, improving services, resolving problems related to service delivery, and addressing the service needs of the eligible service population.
5. **Priority Services** means those services associated with access to services (transportation, outreach, information and assistance, and case management); in-home services including supportive services for families of older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and legal assistance.
6. **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.
7. **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.

**Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10**

ARTICLE I. DEFINITIONS (Continued)

8. **Nutrition Services Incentive Program (NSIP)** means the program whose purpose is to provide incentives to encourage and reward effective performance by AAAs in the efficient delivery of nutritious meals to older individuals. The program consists of a cash allotment based on the ratio of the number of meals served by each PSA compared to the total number of meals served in the State in the preceding year.
9. **Title III D (Disease Prevention and Health Promotion Services)** means a variety of activities to maintain or improve the physical, mental, and nutritional health of older persons, to include the following specific activities: disease prevention, health promotion education, nutrition education, nutrition counseling, nutrition risk screening services, medication management, home security, equipment, family support, community education/advocacy, information, outreach, physical fitness, therapy, and comprehensive assessment.
10. **Medication Management** means “medication screening and education to prevent incorrect medication and adverse drug reactions” and is a required service with a separate funding allocation.
11. **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 services.
 - 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 sale of items fabricated under a contract agreement.
12. **One-Time-Only** include the following:
 - a. Titles III and VII federal funds allocated to the AAA in a state fiscal year that are not expended or encumbered for services and administration provided by June 30 of that fiscal year as reported to CDA in the Financial Closeout Report (CDA 180). (Title 22 CCR 7314).
 - b. Title III and VII federal funds recovered from an AAA as a result of a fiscal audit determination and resolution by the Department.

Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10

ARTICLE I. DEFINITIONS (Continued)

- c. Supplemental Title III and Title VII program funds allocated by the Administration on Aging to the CDA as a result of the federal re-allotment process.
- 13. **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.
- 14. **Eligible Service Population** for Title III (except for Title III E) 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].

B. DEFINITIONS SPECIFIC TO TITLE III E—FAMILY CAREGIVER SUPPORT PROGRAM (FCSP)

- 1. **Program Requirements** means requirements found in the Older Americans Act (OAA), Title III, Part E, Sections 371 through 374.
- 2. **Eligible Service Population** for Title III E means:
 - a. A Family Caregiver
 - b. A Grandparent or Older Individual Who is a Relative Caregiver
- 3. **A Family Caregiver** is defined in Title III, Part A, Sections 302(3) of the OAA as an adult family member or another individual who is an informal provider of in-home and community care to an older individual or to an individual (of any age) with Alzheimer's disease or a related disorder with neurological and organic brain dysfunction. "Family Caregiver" is used interchangeably with "informal caregiver". "Informal" means that the care is not provided as part of a public or private formal service program.

A Family Caregiver provides care without pay. FCSP funds cannot be used to pay the Family Caregiver a stipend or salary for providing care. FCSP funds may be used to pay another family member or friend to provide respite care or supplemental services to the Family Caregiver.

**Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10**

ARTICLE I. DEFINITIONS (Continued)

The broader term "Caregiver" as defined in Title I, Section 102(18)(B) of the OAA is not applicable to Title III of the OAA since it also means an individual who—voluntarily or because of compensation—has responsibility for the care of an older individual and is providing this care on behalf of the Family Caregiver or on behalf of a public or private agency or organization.

4. **A Grandparent or Older Individual Who is a Relative Caregiver** is defined as a grandparent or step-grandparent of a child, or a relative of a child by blood, marriage, or adoption, who is 55 years of age or older, and who meets the following additional criteria in Title III, Part E, Section 372 (3) of the OAA.
 - a. Lives with a child (but is not the older adult parent of the child or individual of any age with a disability);
 - b. Is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and
 - c. Has legal relationship with child, as such legal custody or guardianship, or is raising the child informally.

5. **An Older Individual Receiving Care (Care Receiver)** is defined as one who is 60 years of age or older, or an individual (of any age) with Alzheimer's disease or a related disorder with neurological and organic brain dysfunction [Title III, Part, A Section 302(3); Title I, Section 102(22)]. Family Caregivers cannot receive FCSP-funded respite and supplemental services specified in paragraph 8 of this section unless the Care Receiver meets the more restrictive eligibility criteria specified in Title III, Part E, Section 373 (c) (1) (B) of the OAA and the definition of "frail" in OAA Section 102 (22), which requires that the Care Receiver is unable to perform at least two activities of daily living [i.e., human assistance is needed for eating, toileting, walking, transferring in/out of bed or chair, bathing, dressing] or requires substantial supervision due to a cognitive or other mental impairment.

6. **A Child (who receives care from a Grandparent or Older Individual who is a Relative Caregiver)** is defined in Title III, Part E, Section 372(a)(1) of the OAA as an individual who is not more than 18 years of age or is an individual (of any age) with a disability.

**Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10**

ARTICLE I. DEFINITIONS (Continued)

7. **Individual with Severe Disabilities** is defined in Title I, Section 102(48) of the OAA as a person with a severe, chronic disability attributable to mental or physical impairment, that is likely to continue indefinitely and results in substantial limitation in three or more of the following areas of major life activity:
- a. Self-care,
 - b. Receptive and expressive language,
 - c. Learning,
 - d. Mobility,
 - e. Self-direction,
 - f. Capacity for Independent Living,
 - g. Economic self-sufficiency,
 - h. Cognitive functioning, and
 - i. Emotional adjustment.
8. **Title III E (Family Caregiver Support Program)** is defined in Title III, Part E, Section 373(b) as support services that include (1) information to caregivers, potential caregivers, and those who may assist caregivers about available services; (2) assistance to caregivers in gaining access to the services; (3) individual counseling, organization of support groups, and caregiver training (individual or group) to assist the caregivers in the areas of health, nutrition, and financial literacy, and in making decisions and solving problems relating to their caregiving roles; (4) respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and (5) supplemental services, on a limited basis, to complement the care provided by caregivers. In accordance with Title III, Part E, Section 373(e) (1), the Department has established for the five support service categories additional service standards that must be met. These standards are documented in the FCSP Service Matrix, which the Department publishes periodically, as necessary.

The following apply to the respite care (4) or supplemental services (5) categories above:

- a. "Respite Care" is the provision of temporary, substitute supports or living arrangements for care receivers and may be provided (1) in the home (and include the provision of personal, homemaker, and chore services to the care receiver), (2) by attendance of the care receiver at day care or other non-residential day center or program (including recreational outings for children), and (3) by attendance of the care receiver in a facility for an overnight stay on an occasional or emergency basis (such as a nursing home for older adults or summer camp for grandchildren).

**Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10**

ARTICLE I. DEFINITIONS (Continued)

- b. “Temporarily” means a brief period of relief or rest from a caregivers responsibilities during a limited time period, and could be provided on the following basis:
 - (1) Intermittent—Time off a few hours once a week for a limited time to give the caregiver a planned or unscheduled break;
 - (2) Occasional—Time off for the caregiver to attend a special event;
 - (3) Emergency—Extended break to address an intervening circumstance, such as caregiver emotional stress or hospitalization and recovery.

- c. Title III E funds cannot be used to support the following activities:
 - (1) To pay the costs for a family caregiver to attend a camp, spa, resort, or restaurant;
 - (2) To temporarily relieve workers from formally paid services (e.g., In-Home Supportive Services or services required to be provided in a licensed facility such as a Residential Care Facility for the Elderly;
 - (3) To supplement the service unit cost of “a participant day” at an adult day care program.

- d. Title III E Supplemental Funds cannot be used to support the following activities:
 - (1) Assisting a care receiver, unless there is an identified caregiver need that is met through assistance to the care receiver;
 - (2) Providing ongoing assistance to a care receiver living alone;
 - (3) Same level of service provided to all caregivers, rather than assistance based on caregiver level of need and priority; and
 - (4) One-time, end-of-the-year assistance without an identified individual caregiver need.

C. DEFINITIONS SPECIFIC TO TITLE VII-A (ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES)

- 1. **State Long-Term Care Ombudsman Program** means the CDA program recognized by the State Legislature and in compliance with the OAA and the Older Californians Act. The legislative intent of this program is to use volunteers and volunteer programs to effectively assist older individuals residing in long-term care facilities in the assertion of their civil and human rights. [OAA 712(a)(1)(B); W&I 9700, 9701(f)].

ARTICLE I. DEFINITIONS (Continued)

2. **Office of the Long-Term Care Ombudsman** means the office established and operated by CDA to carry out the State Long-Term Care Ombudsman Program, both directly and by contract with the Area Agencies on Aging (AAAs). As a program of CDA, the Office is responsible for activities that promote the development, coordination, and utilization of Ombudsman services. The Office establishes and maintains effective communication with programs that provide legal services for the elderly and advocacy services of similar nature that receive funding or official designation from the state. The Office analyzes data, monitors government actions, and provides recommendations pertaining to long-term care facilities and services. The Office periodically updates training procedures for Local Ombudsman Programs and provides them with administrative and technical assistance. [OAA 712(a)(1)(A), 712(a)(3) (C&F), 712(h); W&I 9710, 9716, 9717].
3. **State Ombudsman** means the individual who serves as the full-time head of the Office of the Long-Term Care Ombudsman. The State Ombudsman is appointed by the CDA director and reports directly to this director. With the participation of the AAA, the State Ombudsman develops policies and procedures for the State Ombudsman Program, including AAA responsibilities for the provision of Ombudsman services in their Planning and Service Area (PSA) – including their resolution of concerns with respect to Local Ombudsman Program activity. [OAA 712(a) (2&3), 712(a)(5)(D)(ii), 712(e); W&I 9711].
4. **Local Ombudsman Program** means either a program of the AAA or its subcontractor that is selected to carry out the duties of the State Long-Term Care Ombudsman Program with respect to the planning or service area. The selection is in accordance with policies and procedures established by the State Ombudsman and meet the State Ombudsman's criteria for designation and concurrence. [OAA 711(3), 712(a)(5)(D); W&I 9701(a)].
5. **Local Ombudsman Coordinator** means the individual selected by the governing board or executive director responsible for the Local Ombudsman Program to represent the Local Ombudsman Program and manage the day-to-day operations, including implementation of federal and State requirements. The Local Ombudsman Coordinator is required to be a State Certified Ombudsman Representative, complete State training for new Coordinators, and participate in State Ombudsman sponsored meetings at least twice each year. The selection is in accordance with policies and procedures established by the State Ombudsman and meet the State Ombudsman's criteria for designation and concurrence. [OAA 712(a)(5)(A), 712(h)(5); 9701(e), 9719].

**Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10**

ARTICLE I. DEFINITIONS (Continued)

6. **State Certified Ombudsman Representative** means the volunteer or employee of the Local Ombudsman Program who is individually certified in accordance with policies and procedures established by the State Ombudsman to serve as representative of the State Long-Term Care Ombudsman Program. Prior to acceptance by the State Ombudsman for certification, the individual is required to complete a minimum of 36 hours of training in accordance with policies and procedures established by the State Ombudsman. [OAA 711(5), 712(a)(5)(A), 712(h)(5); W&I 9719].
7. **Volunteer Recruitment** means those activities associated with engaging and retaining the services of volunteers to serve as a State Certified Ombudsman Representative. [OAA Section 712(a)(5)(B)(vii)]
8. **Eligible Service Population** means older individuals, 60 years of age or older, who are residents of long-term care facilities (i.e. nursing, skilled nursing, distinct part facilities, residential care facilities for the elderly, and other adult care homes similar to these facilities) regardless of their socio-economic status or area of residence. [OAA Sections 102(35), 321(a)(10), W&I 9701(b). The Local Ombudsman Program may serve residents under 60 years of age if:
 - a. A majority of the residents of the facility where the younger person resides are over age 60, and
 - b. Such service does not weaken or decrease service to older individuals covered by the OAA [Policy of the Office of Elder Rights Projection, Administration on Aging; July 15, 1996].

D. DEFINITIONS SPECIFIC TO TITLE VII-B (ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES – PROGRAMS FOR PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION)

1. **Elder Abuse Prevention Programs** means activities to develop, strengthen, and carry out programs for the prevention, detection, assessment, and treatment of, intervention in, investigation of, and response to elder abuse, neglect, and exploitation (including financial exploitation) (42 U.S.C. 3058i, OAA Section 721), including:
 - a. Providing for public education and outreach to identify and prevent elder abuse, neglect, and exploitation;

**Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10**

ARTICLE I. DEFINITIONS (Continued)

- b. Providing for public education and outreach to promote financial literacy and prevent identity theft and financial exploitation of older individuals;
- c. Ensuring the coordination of services provided by area agencies on aging with services instituted under the State adult protective service program, State and local law enforcement systems, and courts of competent jurisdiction;
- d. Promoting the development of information and data systems, including elder abuse reporting systems, to quantify the extent of elder abuse, neglect, and exploitation in the PSA.
- e. Conducting analyses of local Adult Protective Services and Long-Term Care Ombudsman information concerning elder abuse, neglect, and exploitation and identifying unmet service, enforcement, or intervention needs;
- f. Conducting training for individuals, including caregivers described in part E of Title III, professionals, and paraprofessionals, in relevant fields on the identification, prevention, and treatment of elder abuse, neglect, and exploitation, with particular focus on prevention and enhancement of self-determination and autonomy;
- g. Providing technical assistance to programs that provide or have the potential to provide services for victims of elder abuse, neglect, and exploitation and for family members of the victims;
- h. Conducting special and on-going training, for individuals involved in serving victims of elder abuse, neglect, and exploitation, on the topics of self-determination, individual rights, State and federal requirements concerning confidentiality, and other topics determined by the Department to be appropriate.

ARTICLE II. SCOPE OF WORK

- A. The Contractor shall perform the following for Title III, Title VII, and Community-Based Services Programs (CBSP) Programs:

Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10

ARTICLE II. SCOPE OF WORK (Continued)

1. Implement the statutory provisions of the Title III and Title VII Programs (OAA, Section 306) in accordance with State and federal laws and regulations. Contractor shall make every effort to meet the goals and objectives stipulated in the four-year Area Plan and annual updates of the Area Plan's Goals, Objectives, and Service Unit Plan, herein incorporated into this Agreement by reference. Performance shall not be unilaterally reduced or otherwise changed without prior consultation with, and written approval of, the Department.
2. Establish and maintain an organization that shall have the ultimate accountability for funds received from the Department and for the effective and efficient implementation of the activities as described in the Area Plan and all pertinent State and federal laws and regulations including data reporting requirements.
3. Meet the adequate proportion requirements for priority services as required under the OAA, Section 306(a)(2); and CCR, Section 7312.
4. Maintain staff time records and documentation to identify the allocation of Program Development or Coordination activities to determine the amount of Program Development or Coordination expenditures. Records and documentation shall:
 - a. Include a written description for each Program Development or Coordination activity in the staff time records that is of sufficient detail to define the event or type of activity, and
 - b. Be traceable back to the Program Development or Coordination objectives as approved in the Area Plan.
5. Keep on file the written record/documentation supporting expenditures of Program Development or Coordination activities for three years or until any audit is resolved, whichever is longer.
6. Meet the requirements under the OAA, Section 301(a)(1) to secure and maintain maximum independence and dignity in a home environment for the eligible service population capable of self-care with appropriate supportive and nutrition services.
7. Remove individual and social barriers to economic and personal independence for the eligible service population to the extent possible as required under OAA, Section 301(a)(2)(B).

Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10

ARTICLE II. SCOPE OF WORK (Continued)

8. Provide a continuum of care for the vulnerable eligible service population as required under OAA, Section 301(a)(2)(C).
9. Secure the opportunity for the eligible service population to receive managed in-home and CBSP long-term care services as required under OAA, Section 301(a)(2)(D).
10. Maintain or improve Community-Based Services Program (CBSP) services to meet the physical and mental health of older persons, as required under the OAA, Section 361(a) through funding that includes Title III D Disease Prevention and Health Promotion.
11. Conduct and/or promote activities for the prevention and treatment of elder abuse, neglect, and exploitation, as required under the OAA, Section 721.
12. Maintain or increase the number of Title III C-1 and C-2 meals served if federal and/or State funds for meal programs increase. This contract shall promote and maintain high standards of food safety and sanitation as required by the California Retail Food Code (CalCode).
13. 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).
14. Review, approve, and monitor subcontractor budgets and expenditures and any subsequent amendments and revisions to budgets. Contractor shall, to the extent feasible, ensure that all budgeted funds are expended by the end of each fiscal year.
15. Monitor, on an ongoing basis, the subcontractor's use of federal and State funds through reporting, site visits, regular contact, or other means to provide reasonable assurance the subcontractor administers federal and State awards in compliance with laws, regulations, and the provisions of contracts and that performance goals are achieved [OMB Circular A-133.400(d)(3)]. Except for nutrition programs, on-site monitoring will be conducted at least every two years.
16. 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

Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10

ARTICLE II. SCOPE OF WORK (Continued)

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.
17. 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.
 18. Distribute and maintain up-to-date CDA requirements so that all responsible persons have ready access to standards, policies, and procedures.
 19. Provide program information and assistance to the public.
 20. Maintain a four-year Area Plan, with annual updates, as specified in Title 22 CCR, Sections 7300 through 7320. The Area Plan and annual updates are due by May 1 of each year and the year-end report is due by November 1 of each year. The annual update and year-end report shall be effective during the same term as this Agreement.
 21. Maintain a program data collection and reporting system as specified in Exhibit E.
 22. Limit expenditures for Title III E Supplemental Services to twenty (20) percent of the total Federal and Matching Non-Federal share FCSP allocation, as directed per guidance from Administration on Aging.
 23. Obtain prior approval of the CDA for any units of service to be funded under the Title III E Supplemental Services "Other" Category, in accordance with CDA policy.
 24. Expend not more than 10-percent of the total federal and matching non-federal share to provide support services to grandparents and older individuals who are relative caregivers of a child who is not more than 18 years of age in accordance with OAA Section 373(g)(2)(C).

Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10

ARTICLE II. SCOPE OF WORK (Continued)

25. Contract Title III case management services only to a public or non-profit agency, as required by the USC 42 Section 3026 (a)(8)(C).
 26. Offer to each older individual seeking Title III case management services a list of agencies that provide similar services within the jurisdiction of the AAA as specified in subsection (i), (ii), and (iii), of the USC 42 Section 3026 (a)(8)(C).
 27. Include the identity of each designated community focal point in subcontracts as specified in USC 42 Section 3026 (a)(3)(B).
- B. The Contractor shall ensure that the Local Ombudsman Program, in accordance with policies and procedures established by the State Ombudsman, will:
1. Provide services to protect the health, safety, welfare and rights of residents. [OAA 712(a)(5)(i); 9701(a)].
 2. Ensure residents in the service area of the Local Ombudsman Program have regular, timely access to State Certified Ombudsman Representatives and timely responses to complaints and requests for assistance. [OAA 712(a)(5)(B)(ii)].
 3. Identify, investigate, and seek to resolve complaints made by or on behalf of residents that relate to their rights and well-being as residents. Complaint investigations shall be done in an objective manner to ascertain the pertinent facts. Findings shall be reported to the complainant. If a complaint is not investigated; the complainant shall be notified in writing the decision not to investigate and the reasons for the decision. [OAA 712(a)(5)(B)(iii); W&I 9701(a), 9720].
 4. Witness advance health care directives and property transfers of more than \$100 for residents of skilled nursing facilities. [HSC 1289, PC 4675, PC 4700 et seq.].
 5. Collect and submit data in accordance with the statewide uniform reporting system established by the State Ombudsman and the reporting provisions specified in Exhibit E of this contract. [OAA 712(c)].
 6. Represent the interests of residents before governmental agencies and seek administrative, legal, and other remedies to protect the rights and well-being of residents. [OAA 712(a)(5)(B)(iv)].

Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10

ARTICLE II. SCOPE OF WORK (Continued)

7. Review, comment, and facilitate the ability of the public to comment on laws, regulations, policies, actions, and legislative bills that pertain to the rights and well-being of residents. [OAA 712(a)(5)(B)(v)].
 8. Support the development of resident and family councils. [OAA 712(a)(5)(B)(vi)].
 9. Carry out other activities that the State Ombudsman determines to be appropriate, including periodic updating of a plan for maintaining an ongoing presence in long-term care facilities, and participation in special initiatives to recruit volunteers to serve as State Certified Ombudsman Representatives. [OAA 712(a)(5)(B)(vii)].
 10. Have the option to provide additional services, if they do not weaken or decrease required Ombudsman responsibilities and duties, including the following services:
 - a. Provide public information and technical support pertaining to long-term care services, including inspection reports, statements of deficiency, and plans of correction for long-term care facilities within the service area. [W&I 9726.1(a)].
 - b. Promote visitation programs and other community involvement in long-term care facilities within the service area. [W&I 9726.1(b&d)].
 - c. Establish (in addition to support) resident, family and friends' councils. [W&I 9726.1(c)].
 - d. Present community education and training programs to long-term care facility staff, human service workers, and the general public about long-term care and residents' rights. [W&I 9726.1(e)].
 - e. Refer to the appropriate governmental agency the complaints and concerns of other residents in long-term care facilities that are not eligible to receive the services of the State Long-Term Care Ombudsman Program. [W&I 9720].
- C. The Contractor shall ensure that the Local Ombudsman Program, in accordance with policies and procedures established by the State Ombudsman, will:

Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10

ARTICLE II. SCOPE OF WORK (Continued)

1. Use Federal Citation Penalties Account to provide an increase in the number of certified volunteer Ombudsman staff and volunteers that provide services to residents living in Skilled Nursing Facilities (SNF) and Distinct Part SNFs in acute care hospitals. Allowable expenditures include: recruiting/retaining staff, office space, equipment and furniture for new staff, increased utilities usage, additional funding for volunteer mileage, training, volunteer recognition activities, and materials and space to conduct community awareness activities, and other activities which support the overall program.
 2. Ensure that before the funds referred to in paragraph 1 are requested from the CDA, the Long-Term Care Ombudsman Program(s) shall submit an annual plan to the CDA that includes:
 - a. Estimated number of volunteers to be certified during the State fiscal year who will perform Ombudsman activities primarily in SNFs and Distinct Part SNFs in acute care hospitals.
 - b. Number of staff to be hired or number and percentage of additional Full-time Equivalents (FTEs) dedicated to volunteer recruitment activities during the State fiscal year.
 - c. Anticipated time period during which staff will be hired.
 - d. Number and type of community awareness activities for the purpose of recruiting volunteers (e.g., speaking engagements, attending senior fairs, health fairs, etc.) during the State fiscal year.
 3. Contractor shall review and approve claims for federal Citation Penalties Account funds.
 4. Contractor shall submit monthly fiscal documents to CDA, as determined by the CDA, for federal Citation Penalties Account funds.
- D. The Contractor shall perform the following for the Community-Based Services Programs (CBSP).

If the contractor chooses to use CBSP funds for any of the following purposes, the contractor shall agree to the following provisions:

1. Linkages Program

Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10

ARTICLE II. SCOPE OF WORK (Continued)

- a. Operate, as a direct or contracted service, a state funded Linkages Program that meets the program standards set forth in the Linkages Program Manual, revised June 2008, and in any other subsequent program memos, provider bulletins, or similar instructions issued during the term of this Agreement.
- b. Additional Provisions
 - i. **Eligible Service Population** means: the frail elderly and disabled adult age 18 and older without regard to financial eligibility; live in a geographic area of a state-funded case management (Linkages) program; the ability to be maintained in the community with case management; be willing to participate in the program; and be at risk of being placed in an institution.
 - ii. Have the option to participate in Targeted Case Management (TCM) administered by the Department of Health Care Services (DHCS). Contractor must comply with Title 42 USC, Section 1396 et seq., 42 Code of Federal Regulations (CFR) Part 400 et seq., and 45 CFR Part 95, California Welfare and Institutions (W&I) Code, Division 9, Part 3, Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 142000), and Title 22 California Code of Regulations (CCR), Division 3 (commencing with Section 50000), all as periodically amended; State-issued policy directives; and with the federal Office of Management and Budget (OMB) Circular A-87, as periodically amended for the operation of TCM.
 - iii. Have the ability to seek parking penalties, fines, or forfeiture funds collected at the county level pursuant to provisions contained in Section 1465.5 and Section 42001.13 of the Vehicle Code for violation of Section 22507.9 of the Vehicle Code.
 - iv. The active targeted monthly caseload shall be at least 100 clients per Linkages site or a ratio of 50:1 for each full-time equivalent case manager. A caseload variance of +/- 20 percent (20%) based on the 50:1 ratio is allowed, but the active caseload shall not fall below an 80 percent (80%) client minimum.

Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10

ARTICLE II. SCOPE OF WORK (Continued)

- v. Maintain a program data collection and reporting system as specified in Exhibit E.
 - vi. Each Linkages site is required to budget at least \$7500.00 per year for Purchase of Service.
2. Senior Companion Program
- a. Operate, as a direct or contracted service, a Senior Companion (SC) Program with an approved Corporation for National and Community Service (CNCS) provider to implement the statutory provisions of the Domestic and Volunteer Service Act of 1973, as Amended (USC Title 42, Chapter 26), 45 Code of Federal Regulations (CFR) Parts 1207 and 2551, and in accordance with the 2000 SC Program Operations Handbook as issued by the CNCS (www.seniorcorps.org).
 - b. Additional Provisions
 - i. **Eligible Service Population** means: low-income volunteers aged 60 years and older, with an income that falls below the federal eligibility guidelines.
 - ii. Provide a tax-exempt stipend, a flexible work schedule of 15 to 40 hours per week, [45 CFR 25551.51] and other benefits that enable eligible volunteers to participate without incurring personal costs to themselves.
 - iii. Use a base funding for a Volunteer Service Year (VSY) calculated at a cost per VSY of \$4,675. [CNCS 2006 Programming for National Significance (PNS) Guidance]
 - iv. No minimum limitation on how the State allocation can be applied in the Volunteer Expense category.
 - v. If CNCS already has an approved federal SCP provider within the jurisdiction of the Contractor, that federal provider must be given an opportunity to accept the State-funded SC Program through a sole source contract.
 - vi. If the approved federal SC Program provider waives its interest in a State-funded SC Program, the Contractor must secure the approval of the CNCS to procure through the

Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10

ARTICLE II. SCOPE OF WORK (Continued)

competitive bid process prior to issuing any Request for Proposal (RFP).

- vii. Any RFP must be approved by the CNCS prior to release.
- viii. Maintain a program data collection and reporting system as specified in Exhibit E.
- ix. Conduct and document National Service Criminal History Checks on SC volunteers as well as grant-funded employees, who serve persons age 60 and older or individuals with disabilities. [Corporation for National and Community Service 45 CFR Part 2551 Subpart B.].

3. Brown Bag Program

- a. Operate, as a direct or contracted service, a state funded Brown Bag Program that meets the program standards set forth in the Brown Bag Manual, revised June, 1999, and in any other subsequent program memos, provider bulletins, or similar instructions issued during the term of this Agreement.

b. Additional Provisions

- i. **Eligible Service Population** means: individuals 60 years of age or older with an income no higher than that of the annual basic benefit level provided under the State Supplementary Payment (SSP) Program for a blind recipient [California Welfare and Institutions Code, Division 8.5, Chapter 7.5, Section 9543(b)]. If it is determined that a surplus of foodstuffs exists, the program may also provide these services to persons 60 years of age or older with an income that does not exceed 125 percent of the maximum SSP income level. [Section 9543(c)].
- ii. No minimum dollar amount or specified numbers of contractors are required.
- iii. Maintain a program data collection and reporting system as specified in Exhibit E.

4. Respite Purchase of Service (RPOS)

**Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10**

ARTICLE II. SCOPE OF WORK (Continued)

- a. Operate, as a direct or contracted service, a state funded Respite Purchase of Service (RPOS) program that meets the program standards set forth in the Respite Purchase of Service Manual, revised June 2000, and in any other subsequent program memos, provider bulletins, or similar instructions issued during the term of this Agreement.
 - b. Additional Provisions
 - i. **Eligible Service Population** means: caregivers of frail elderly adults or adults with functional impairments.
 - ii. Contracts for RPOS are not tied to the Linkages Program and can be contracted as a separate service.
 - iii. Maintain a program data collection and reporting system as specified in Exhibit E.
5. Alzheimer's Day Care Resource Center (ADCRC)
- a. Operate, as a direct or contracted service, a state funded ADCRC for the purpose of developing an enhanced program infrastructure that enables a day care provider to provide services successfully to persons with moderate to severe Alzheimer's disease or related dementia as well as support to their families and caregivers as set forth in the Alzheimer's Day Care Resource Center Policy and Procedure Manual, revised July 2000, and in any other subsequent program memos, provider bulletins, or similar instructions issued during the term of this Agreement.
 - b. Additional Provisions
 - i. **Eligible Service Population** means: an individual age 18 and older with Alzheimer's disease, or other dementia-related disorders, particularly in the moderate to severe stages, whose care needs and behavioral problems may make it difficult to participate in existing care programs.
 - ii. Have the ability to use additional funding sources, including but not limited to, participant fees or share-of-cost.
 - iii. Conduct pre-award and physical plant, safety inspections, and relocation visits.

**Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10**

ARTICLE II. SCOPE OF WORK (Continued)

- iv. The total amount of funds from all sources (CBSP, Program Income, Matching Contributions, and Non-Matching Contributions) that will be used to operate the ADCRC program, must at a minimum total \$80,000.
- v. Use of any funds in support of an ADCRC requires each contracted entity to comply with all ADCRC program requirements.
- vi. Multiple subcontractors are allowable and satellite sites operated by a subcontractor are no longer tied to a baseline funding allocation.
- vii. Subcontractor must have a mechanism in place to ensure that changes in licensing status are reported to the Contractor within 30 days.
- viii. Maintain a program data collection and reporting system as specified in Exhibit E.
- ix. Ensure that the subcontractor has a current Adult Day Health Care or Adult Day Care license. (W&I 9542(e))

E. The Contractor shall perform the following bilingual and linguistic program services for all programs: (GC 11135 -11139.5; Title 22 CCR Sections 98211, 98310-98314, 98324- 98326, 98340, 98370)

1. Needs Assessment

- a. Contractor shall conduct a cultural and linguistic group-needs assessment of the eligible client population in the Contractor's service area to assess the language needs of the population and determine what reasonable steps are necessary to ensure meaningful access to services and activities to eligible individuals. (Title 22 CCR Section 98310, 98314)

The group-needs assessment shall take into account the following four factors:

- 1. Number or proportion of limited English speaking persons (LEP) eligible to be served or likely to be encountered by the program.
- 2. Frequency with which LEP individuals come in contact with the program.

**Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10**

ARTICLE II. SCOPE OF WORK (Continued)

3. Nature and importance of the services provided to people's lives.
4. Resources available to the Contractor.

This group-needs assessment will serve as the basis for Contractor's determination of "reasonable steps" and provide documentary evidence of compliance with GC Section 11135 et seq. and sections 98000-98382 of Title 22 of the CCR.

- b. Contractor shall prepare and make available a report of the findings of the group-needs assessment that summarizes the items listed below:
 1. Methodologies used.
 2. Findings regarding linguistic and cultural needs of non-English or LEP groups.
 3. Services proposed to address the needs identified and a timeline for implementation. (Title 22 CCR Section 98310)
- c. Contractor shall maintain a record of the group-needs assessment on file at the Contractor's headquarters at all times during the term of this Agreement. (Title 22 CCR Section 98310, 98313)

1. Provision of Services

- a. Contractor shall take reasonable steps, based upon the group-needs assessment identified in subdivision 1 of this section, to ensure that "alternative communication services" are available to non-English speaking or LEP beneficiaries of services under this Agreement. (Title 22 CCR Section 98211)
- b. "Alternative communication services" include, but are not limited to, the provision of services and programs by means of the following:
 1. Interpreters or bilingual providers and provider staff.
 2. Contracts with interpreter services.
 3. Use of telephone interpreter lines.
 4. Sharing of language assistance materials and services with other providers.

Scope of Work – Exhibit A
AREA PLAN- Fiscal Year 2009-10

ARTICLE II. SCOPE OF WORK (Continued)

- b. Contractor shall make available to ultimate beneficiaries of contracted services and programs information regarding the Department's procedure for filing a complaint and other information regarding the provisions of GC section 11135 et seq. (Title 22 CCR Section 98326)
- c. Contractor shall notify the Department immediately of a complaint alleging discrimination based upon a violation of State or federal law. (Title 22 CCR Sections 98211, 98310, 98340)

Budget Detail, Payment Provisions, and Closeout – Exhibit B
AREA PLAN – Fiscal Year 2009-10

ARTICLE I. FUNDS

A. Expenditure of Funds

1. The Contractor shall expend all funds received hereunder in accordance with this Agreement.
2. Funds made available for Ombudsman expansion of volunteer recruitment activities in the Budget Act shall be used by the Contractor to expand the Long-Term Care Ombudsman Program and shall not be used for activities of any other programs.
3. 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.

4. 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

ARTICLE I. FUNDS (Continued)

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.

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 Area Plan Budget (CDA 122). 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:

Budget Detail, Payment Provisions, and Closeout – Exhibit B
AREA PLAN – Fiscal Year 2009-10

ARTICLE I. FUNDS (Continued)

- 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 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 Title III and VII programs:
 - 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.

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 (except as noted in 4).
3. For Title III B, III C, III D, III E, VII Ombudsman, and VII Elder Abuse Prevention programs, Program Income must be spent before contract funds (except as noted in 4) and may reduce the total amount of contract funds payable to the Contractor.
4. For Title III B, III C, III D, III E, VII Ombudsman, and VII Elder Abuse Prevention programs, if Program Income is earned in excess of the amount reported in the Area Plan Budget (CDA 122), the excess amount may be deferred for use in the first quarter of the following contract period, which is the last quarter of the federal fiscal year.
5. If Program Income is deferred for use it must be used by the last day of the federal fiscal year and reported when used.
6. Program Income may not be used to meet the matching requirements of this Agreement.
7. Program Income must be used to expand services.
8. ADCRC client fees may be retained and expended without regard to fiscal year, provided that the income is shown as restricted funds in the accounting records and financial statements of the Contractor, and used for costs of the ADCRC.

G. One-Time-Only Funds

1. Title III, VII, & III E and Supplemental Title III & VII federal Program One-Time-Only funds shall be used for one-time- only purposes and cannot be used to increase baseline needs. One-Time-Only funds may be used for the following purposes:
 - a. The purchase of equipment that enhances the delivery of services to the eligible service population.
 - b. Home and community-based projects that are approved in advance by the Department, and are designed to address the unmet needs of the eligible service population identified in the Area Plan.
 - c. Innovative pilot projects which are approved in advance by the Department, and are designed for the development or

Budget Detail, Payment Provisions, and Closeout – Exhibit B
AREA PLAN – Fiscal Year 2009-10

ARTICLE I. FUNDS (Continued)

enhancement of a comprehensive and coordinated system of services as defined in 45 CFR 1321.53(a) & (b).

2. NSIP One-Time-Only funds shall be used to purchase food used in the Elderly Nutrition Program.
3. Title III B, III C-1, III C-2, and III E federal Administration One-Time-Only funds shall be used for one-time-only purposes and cannot be used to increase baseline administrative needs.

H. 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 Area Plan 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.).

I. Area Plan Administration

Budget Detail, Payment Provisions, and Closeout – Exhibit B
AREA PLAN – Fiscal Year 2009-10

ARTICLE I. FUNDS (Continued)

1. Area Plan Administration may be combined into one cost objective for purposes of documenting charges for salaries and wages funded from Title III B, III C-1, III C-2, III E, III C-1 General Fund, III C-2 General Fund, and Community-Based Services Program (CBSP) General Fund administration allocations.
2. CBSP Administration shall be no more than 10 % of the total CBSP allocation.

ARTICLE II. BUDGET AND BUDGET REVISION

- A. The Contractor shall be compensated for expenses only as itemized in the approved Area Plan Budget (CDA 122) and shall not be entitled to payment for these expenses until the Area Plan Budget (CDA 122) is reviewed and approved by the Department. The approved Area Plan Budget is hereby incorporated by reference into this Agreement as a part of Exhibit B.
- B. The Contractor shall submit electronically the original Area Plan Budget (CDA 122) with the Area Plan and Area Plan annual updates.
- C. The Contractor shall submit electronically a budget revision 30 days after receiving an amended Area Plan Budget Display with changes in funding levels, unless otherwise instructed by the Department.
- D. The final date to submit a budget revision is April 30 of the contract period unless otherwise specified by the Department.
- E. Transfers
 1. Transfer of federal baseline funds is allowable between Titles III B and III C in accordance with OAA Section 308(b)(5)(A) and between Titles, III C-1, and III C-2 in accordance with OAA Section 308(b)(4)(A).
 2. Transfer of State funds is allowable between III C-1 General Fund and III C-2 General Fund.
 3. Transfer of State funds is allowable between State Funded CBSP programs.
 4. a. Funds may be transferred in accordance with this section without a formal contract amendment upon agreement of both parties when the total amount of the Agreement does not exceed the total amount of the latest executed Agreement.

ARTICLE II. BUDGET AND BUDGET REVISION (Continued)

- b. Requests to transfer federal or State funds (including CBSP) must be submitted to the Department for approval with the original or revised Area Plan Budget (CDA 122).
 - c. Approved transfers and Area Plan Budgets will be incorporated by reference into the current Agreement.
5. Transfer of funds cannot be processed or approved after the end of the specified contract period.

F. Matching Requirements

- 1. The required administration matching contributions for Title III B, III C, & III E is 25 percent.
- 2. The required program matching contributions for Title III B, III C, & III D is 10 percent.
- 3. The required program matching contributions for Title III E is 25 percent.
- 4. Minimum matching requirements are calculated on net costs, which are total costs less program income, non-matching contributions, and State funds.
- 5. Program matching contributions for Title III B, III C, & III D can be pooled to meet the minimum requirement of 10 percent.
- 6. Matching contributions generated in excess of the minimum required are considered overmatch.
- 7. Program overmatch from Title III B, III C, or III D cannot be used to meet the program match requirement for III E.
- 8. Of the total minimum match required for Title III B, III C, III D, & III E, at least 25 percent must be from State or local public agencies (city and county governments, school districts, special districts, and water districts).
- 9. The required program matching contributions for Alzheimer's Day Care Resource Center program is 25 percent.
- 10. The required program matching contributions for Brown Bag program is 25 percent cash and 25 percent in-kind.

G. Program Development or Coordination

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
AREA PLAN – Fiscal Year 2009-10**

ARTICLE II. BUDGET AND BUDGET REVISION (Continued)

1. The Contractor shall not fund Program Development or Coordination activities as a cost of III B Supportive Services until it has first spent the total of its Title III B, III C, & III E funds allocated for area plan administration costs. During the contract period, Program Development or Coordination activities and area plan administration activities can occur simultaneously. (See Article IV.C. for reconciliation during the closeout period).
2. The Contractor shall budget its total Title III B, III C, & III E funds allocated for area plan administration before budgeting III B for Program Development or Coordination.

H. 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.

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. Title III B, III C, III D, III E, VII Ombudsman, VII Elder Abuse Prevention, & Community-Based Services Programs

The Contractor shall submit a monthly expenditure report and a request for funds to the online California Aging Reporting System (CARS) Fiscal Module by the 30th of each month unless otherwise specified by the Department.

- B. The Department shall review requests for payment to ensure compliance with the approved Area Plan Budget (CDA 122).
- C. During the contract period, the Department shall advance funds based on an analysis of current cash needs. The Department shall pay the Contractor a total not to exceed the amount shown on the Budget Display, which is hereby incorporated by reference.

Budget Detail, Payment Provisions, and Closeout – Exhibit B
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ARTICLE III. PAYMENTS (Continued)

D. Nutrition Services Incentive Program (NSIP)

Upon execution of this agreement, the Department will make quarterly advances of NSIP funding to the Contractor, during the first month of each quarter.

E. 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
6. Source Documentation
7. Cash Management

F. 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 Financial Closeout Report (CDA 180) shall be submitted annually to the AAA-Based Team, within sixty (60) calendar days following the end of the fiscal year, or within thirty (30) days following termination prior to the end of the contract period, unless otherwise specified by the Department.
- B. Federal funds will be reduced proportionately to maintain the required matching ratios if a Contractor fails to report sufficient match in the CDA 180.
- C. During the review and approval of the closeout, administration costs will be increased to the total amount allocated before approving final costs for Program Development or Coordination activities.

Budget Detail, Payment Provisions, and Closeout - Exhibit B

**AREA PLAN
 Budget Display
 Fiscal Year 2009/10**

Stanislaus County, Department of Aging and Veteran Services

| | Baseline | Cumulative Transfers | OTO | Total | Net Change |
|---------------------------------|------------------|----------------------|----------|------------------|------------|
| Community Based Services | | | | | |
| ADCRC | 69,380 | - | - | 69,380 | - |
| Brown Bag | 19,000 | - | - | 19,000 | - |
| Linkages | 213,613 | - | - | 213,613 | - |
| Senior Companion | - | - | - | - | - |
| Respite | 15,717 | - | - | 15,717 | - |
| Total CBSP | 317,710 | - | - | 317,710 | - |
| Administration | | | | | |
| Federal Title IIIB | 52,893 | - | - | 52,893 | - |
| Federal Title IIIC1 | 56,954 | - | - | 56,954 | - |
| Federal Title IIIC2 | 29,693 | - | - | 29,693 | - |
| Federal Title IIIE | 22,703 | - | - | 22,703 | - |
| General Fund C1 | 311 | - | - | 311 | - |
| General Fund C2 | 83 | - | - | 83 | - |
| General Fund CBSP | 34,510 | - | - | 34,510 | - |
| Total Administration | 197,147 | - | - | 197,147 | - |
| Grand Total - All Funds | 1,941,249 | - | - | 1,941,249 | - |
| Funding Summary | | | | | |
| Federal Funds | 1,505,302 | - | - | 1,505,302 | - |
| General Fund | 411,996 | - | - | 411,996 | - |
| Special Deposit | 23,951 | - | - | 23,951 | - |
| | 1,941,249 | - | - | 1,941,249 | - |

Comments:

The maximum amount of Title III/VII Baseline expenditures allowable for the first quarter is: 347,679

The maximum amount of Title IIIE expenditures allowable for supplemental services is: 50,340

The maximum amount of Title IIIE expenditures allowable for Grandparents is: 25,170

The maximum amount of CBSP expenditures allowable for administration is: 35,222

The minimum General Fund to be expended for State Match in Title III is: 58,596

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS

- A. The term "Agreement" or "Contract" shall mean the Standard Agreement (Std. 213), exhibits A, B, C, D, and E, and an approved Area Plan Budget, which is hereby incorporated by reference, amendments, and any other documents incorporated by reference, unless otherwise provided for in this Article.
- B. In the event of any inconsistency between the articles, attachments, or provisions which constitute this contract, the following order of precedence shall apply:
1. Standard Agreement (STD 213), etc., and any amendments thereto;
 2. Scope of work, Exhibit A;
 3. Special terms and conditions Exhibit D;
 4. General terms and conditions, Exhibit C;
 5. Budget Detail and Payment Provisions, Exhibit B and Additional Provisions, Exhibit E, and
 6. Any other documents incorporated herein by reference.
- C. The Contractor shall comply with all applicable program memos and other guidance issued by the Department. In the event of conflict between the program memos and/or other Department guidance and the provisions in this Agreement, the provisions in this Agreement shall prevail.
- D. "State" and "Department," mean the State of California and the California Department of Aging (CDA) interchangeably.
- E. "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.
- F. "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.
- G. "Reimbursable item" also means "allowable cost" and "compensable item."
- H. "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.

**Special Terms and Conditions - Exhibit D
AREA PLAN**

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 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.).**

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE II. ASSURANCES (Continued)

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 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

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE II. ASSURANCES (Continued)

Age Survivors Disability Insurance, and federal and State income taxes withheld, to designated governmental agencies.

H. Facility Construction or Repair (This section only applies to Title III.)

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 and by the Department.
3. When funding is provided for construction and nonconstruction activities, the Contractor or subcontractor must obtain prior written approval from the State before making any fund or budget transfers between construction and nonconstruction.

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.).

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE II. ASSURANCES (Continued)

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 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.

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE II. ASSURANCES (Continued)

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.
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.

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE II. ASSURANCES (Continued)

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.

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.

**Special Terms and Conditions - Exhibit D
AREA PLAN**

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 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

Special Terms and Conditions - Exhibit D
AREA PLAN

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

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.

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

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE VI. RECORDS (Continued)

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.
 - 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.

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE VII. PROPERTY (Continued)

- 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
 4. Serial number
 5. Cost or other basis of valuation;

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE VII. PROPERTY (Continued)

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.
- 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:

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE VII. PROPERTY (Continued)

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.

**Special Terms and Conditions - Exhibit D
AREA PLAN**

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. This section B applies only to Title III/VII.

The following closely related programs identified by CFDA number are to be considered as an "Other Cluster" for purposes of determining major programs or whether a program specific audit may be elected. 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.

| | |
|--------|--|
| 93.041 | Special Programs for the Aging-Title VII, Chapter 3- Programs for Prevention of Elder Abuse, Neglect, and Exploitation (Title VII-B) |
| 93.042 | Special Programs for the Aging-Title VII, Chapter 2- Long Term Care Ombudsman services for Older Individuals (Title VII-A) |
| 93.043 | Special Programs for the Aging-Title III, Part D- Disease Prevention and Health Promotion Services (Title III-D) |

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE X. AUDITS (Continued)

| | |
|--------|--|
| 93.044 | Special Programs for the Aging-Title III, Part B – Grants for Supportive Services and Senior Centers (Title III-B) |
| 93.045 | Special Programs for the Aging-Title III, Part C – Nutrition Services (Title III-C) |
| 93.052 | National Family Caregiver Support-Title III, Part E |
| 93.053 | Nutrition Services Incentive Program (NSIP) |

Cluster of programs means a grouping of closely-related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA), and other clusters. "Other Clusters" are as defined by the OMB in the Compliance Supplement or as designated by a State for federal awards the State provides to its subrecipients that meet the definition of cluster of programs. When designating an "other cluster," a State shall identify the federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster, consistent with §400 (d) (1) and §.400 (d) (2), respectively. A cluster of programs shall be considered as one program for determining major programs, as described in §.520, and, with the exception of R&D as described in §.200(c), whether a program-specific audit may be elected. (Federal Office of Management and Budget, (OMB) Circular, A-133, Audits of States, Local Governments, and Non-Profit Organizations).

- 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.

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:

1. Ensuring that a subcontractor expending \$500,000 or more 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;

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE X. AUDITS (Continued)

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.
- D. 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.
 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.

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ARTICLE X. AUDITS (Continued)

- E. 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.
- 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 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.
- G. 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.
- 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 Administrative expense of the Contractor.
- 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.

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE XI. INSURANCE (Continued)

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 15unless 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 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.

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE XI. INSURANCE (Continued)

- 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).
- H. The entity providing Ombudsman services must be insured or self-insured for professional liability covering all Ombudsman activities including, but not limited to, investigation of patient complaints.

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 portion of the Agreement, the remainder of Agreement shall be deemed to remain in effect and

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE XII. TERMINATION (Continued)

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.

**Special Terms and Conditions - Exhibit D
AREA PLAN**

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.

Special Terms and Conditions - Exhibit D
AREA PLAN

ARTICLE XII. TERMINATION (Continued)

E. Voluntary Termination of Area Plan Agreement

Pursuant to Title 22, Section 7210 the Contractor may voluntarily terminate its contract prior to its expiration either by mutual agreement with the Department or upon 30 days written notice to the Department.

In case of voluntary termination, the Contractor shall allow the Department up to 180 days to transition services.

F. In the event of a termination, 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.

**Special Terms and Conditions - Exhibit D
AREA PLAN**

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.

B. Encryption on Portable Computing Devices

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AREA PLAN

ARTICLE XVIII. INFORMATION INTEGRITY AND SECURITY (Continued)

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.

D. Training/Education

1. The Contractor must provide ongoing education and training, at least annually, to all employees and subcontractors who handle personal,

Special Terms and Conditions - Exhibit D
AREA PLAN

ARTICLE XVIII. INFORMATION INTEGRITY AND SECURITY (Continued)

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 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.

Special Terms and Conditions - Exhibit D
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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. 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.
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.

**Special Terms and Conditions - Exhibit D
AREA PLAN**

ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA (Continued)

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
AREA PLAN – Fiscal Year 2009-10

ARTICLE I. ASSURANCES SPECIFIC TO TITLE III, TITLE VII, AND COMMUNITY-BASED SERVICES PROGRAMS

- 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. If the Contractor makes any award of funds to a public or private nonprofit agency, for the following purposes: (1) acquiring, altering, leasing, or renovating a facility, including a mobile facility, for use as a multipurpose senior center or (2) constructing a facility, including a mobile facility, for use as a multipurpose senior center, the Contractor shall adhere to the program requirements and to 45 CFR Part 74, "Procurement Standards," procurement by contractors and subcontractors for nonprofit organizations, and 45 CFR Part 92.36, procurement for State and local governments, as applicable.
 3. 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."
 4. The Contractor assures that when an existing facility has been altered (with funds made available by this Agreement) and is used as a multipurpose senior center, the period of time in which such facility shall be used as a center is as follows:
 - a. Not less than three (3) years from the date the Agreement terminates where the amount of the Agreement, including the non-federal share, does not exceed \$30,000.
 - b. If the Agreement amount exceeds \$30,000, the fixed period of time shall be not less than three (3) years from the date of Agreement plus one (1) year for each additional \$10,000, or part thereof, to a maximum of \$75,000.
 - c. For Agreement amounts which exceed \$75,000, the fixed period of time shall be no less than ten (10) years.
 5. Any multipurpose senior center constructed with funds made available by this Agreement shall be used for that purpose for at least twenty (20) years after completion of that construction.
 6. Any facility to be used as a senior center and acquired with funds made available by this Agreement shall be used for that purpose for at least ten (10) years from the date of acquisition.

ARTICLE I. ASSURANCES SPECIFIC TO TITLE III, TITLE VII, AND COMMUNITY-BASED SERVICES PROGRAMS (Continued)

7. Any agency awarded Title III funds for senior center acquisition or construction has a completed and notarized Notice of Assurances to the State of California of the Use of Property and the United States' Right of Recapture (CDA 214) recorded with the county recorder. The Contractor shall periodically validate continuing use of such facility as a senior center during the recapture period.
8. CDA funds will be made available only for the support of activities specified in an approved and current Area Plan that is in compliance with State and federal laws and regulations.
9. In providing Family Caregiver Support Program (FCSP) services to a family caregiver, or a grandparent or older individual who is a relative caregiver, priority shall be given for services under OAA, Sections 372(b) and 373(c)(2) to:
 - a. Family Caregivers who provide care for older individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction;
 - b. Grandparents or other older relatives who provide care for children with severe disabilities;
 - c. Family Caregivers and Grandparents or relative caregivers who are older individuals 60 years of age or older [as defined in Title I, Section 102(40)] with greatest social need, with greatest economic need, and with particular attention to low-income individuals; and
 - d. Family Caregivers and Grandparents or relative caregivers who are older individuals 60 years of age or older [as defined in Title I Section 102(40)] who provide care for individuals with severe disabilities, including children with severe disabilities.
10. The Contractor and/or subcontractor shall make use of trained volunteers to expand the provision of FCSP activities in accordance with Title III, Part E, Section 373(d) of the OAA and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants in community service settings (and programs).
11. An individual's receipt of services under the In-Home Supportive Services Program shall not be the sole cause for denial of any services provided by the AAA or its contractors.

ARTICLE I. ASSURANCES SPECIFIC TO TITLE III, TITLE VII, AND COMMUNITY-BASED SERVICES PROGRAMS (Continued)

12. Funds made available under Title III E shall be budgeted and expended in accordance with the five federal support service components specified in Title III, Part E, Section 373(b) of the OAA; and distinguished between “caregiver” and “grandparent” support services, as required for National Aging Programs Information Systems (NAPIS).
13. Funds made available under Title III E shall enable comprehensive and multifaceted systems of support services that include ALL five federal support service components for both “caregiver” and “grandparent” support services (as required in Title III, Part E, Sections 373(a) and (b) of the OAA), unless the AAA has documented through the Area Plan process that one or more of these components is being addressed by other sources. (Title III, Part E, Section 374)
14. Funds made available under this Agreement shall supplement, and not supplant, any federal, State, or local funds expended by a State or unit of general purpose local government to provide Title III (excluding III E), Title VII, or Community-Based Services Programs.
15. Funds made available under Title III E shall supplement and not supplant other services that may directly or indirectly support unpaid caregiving, such as Medicaid waiver programs (e.g., MSSP, etc.) or other caregiver services such as those provided through Department of Social Services Kinship Support Service Programs, California Community Colleges Foster and Kinship Care Education Programs, Department of Developmental Services Regional Centers, Department of Mental Health Caregiver Resource Centers, Linkages, Alzheimer’s Day Care Resource Centers, Respite Purchase of Service, and other Title III funded providers.
16. Performance outcomes for ALL funds expended under FCSP shall be reported in accordance with standards delineated in the FCSP Service Matrix established by CDA, in accordance with Title III, Part E, Section 373(e) of the OAA.
17. Means tests shall not be used by any Contractor for any Title III or Title VII services.
18. Services shall not be denied to any Title III or Title VII client that does not contribute toward the cost of the services received.
19. Methods used to solicit voluntary contributions for Title III and Title VII services shall be non-coercive.

ARTICLE I. ASSURANCES SPECIFIC TO TITLE III, TITLE VII, AND COMMUNITY-BASED SERVICES PROGRAMS (Continued)

20. Donation letters sent to clients for Title III and Title VII services shall stipulate that contributions are voluntary and not required to receive service.
21. Cost Sharing shall not be implemented for any Title III and Title VII service until so notified by the CDA.
- 22.. The Contractor shall comply with the OAA Section 306(a)(17), which requires an AAA to include in its Area Plan information on how it will coordinate activities and develop long-range emergency preparedness plans with local and state emergency response agencies, relief organizations, local and state governments, and any other institutions that have responsibility for disaster relief service delivery.
23. The Contractor, at a minimum, shall identify and make contact with their local Office of Emergency Services (OES) to define their respective roles and responsibilities. This contact shall include a discussion of the types of clients served by the AAA and how their needs will be addressed by OES in the community.
24. The Contractor shall furnish annually or whenever a change occurs, the name of its Disaster Coordinator to the CDA Disaster Coordinator.
25. The Contractor shall assure that its Information and Assistance staff have written procedures in place and are trained at least annually on how to handle emergencies. As specified in Title 22, Division 1.8, Chapter 4, Article 2, Section 7547, the training shall consist of:
 - a. Familiarity with telephone numbers of fire, police, and ambulance services for the geographic area served by the provider. These telephone numbers shall be posted near the telephone for easy access when an emergency arises.
 - b. Techniques to obtain vital information from older individuals and persons with disabilities who require emergency assistance.
 - c. Making written emergency procedure instructions available to all staff who have contact with older individuals or persons with disabilities.
26. Proof of age or citizenship shall not be required as a condition of receiving services.

ARTICLE I. ASSURANCES SPECIFIC TO TITLE III, TITLE VII, AND COMMUNITY-BASED SERVICES PROGRAMS (Continued)

B. Assurances Specific to the Ombudsman Program:

The Contractor shall assure the following:

1. Representatives of the Local Ombudsman Program and members of their immediate family shall be free of conflicts of interest and not stand to gain financially through the following:
 - a. Remuneration (in cash or in kind) received directly or indirectly under a compensation arrangement with a long-term care facility. [OAA Section 712(f)]
 - b. An action or potential action brought on behalf of individuals the Program serves. [OAA Section 712(a)(5)(C)(ii)].
2. Representatives of the Local Ombudsman Program shall have access to long-term care facility residents and their medical and social records, with documentation of consent in accordance to section (3)(a), between the hours of 7:00 a.m. and 10:00 p.m. seven days a week [OAA 712(b)(1); W&I 9722 and 9724; CCR 8020(a)]. Authorization is required by the State Ombudsman for entry outside of these hours and for access to resident records when a legal guardian refuses to give permission and there is reason to believe the guardian is not acting in the best interests of the resident [OAA 712(b)(1)(B)(ii); W&I 9724(c and d); CCR 8020(b)].
3. Representatives of the Local Ombudsman Program shall not carry out the responsibilities of the Program until the State Ombudsman accepts them for certification [OAA 712(h)(5)(B)].
4. All records and files maintained by the local Ombudsman Program relating to any complaint or investigation shall remain confidential unless disclosure is authorized pursuant to OAA 705(a)(6)(C); OAA 712(d)(2) and W&I 9725 as follows:
 - a. Written consent of all complainants, residents and witnesses identified in the record or by the legal representatives of the complainants, residents, or witnesses;
 - b. Oral consent of all complainants, residents and witnesses identified in the record and the oral consent is documented by a State

ARTICLE I. ASSURANCES SPECIFIC TO TITLE III, TITLE VII, AND COMMUNITY-BASED SERVICES PROGRAMS (Continued)

Certified Ombudsman representative or;

c. Court order.

5. The Local Ombudsman Program shall enter into a Memorandum of Understanding (MOU) with the Legal Services Provider (LSP) which will address conflict of interest, provision of legal advice, procedures for referral, and other technical assistance. The LSP may assist the State in providing legal representation to the Program when an Ombudsman Representative has been subpoenaed or in a suit or other legal action threatened or brought against the performance of the official duties of the Ombudsman Representative [OAA 712(h)(7); W&I 9717(c); Statewide Standards for Legal Assistance in California].
6. Each Local Ombudsman Program shall maintain a separate budget. The Local Ombudsman Coordinator shall be responsible for managing the day-to-day operation of the Program, develop or participate in budget preparation, and be informed of budget allocations by the Contractor specific to the Ombudsman Program.
7. Representatives of the Local Ombudsman Program shall conduct interviews/investigations in a confidential manner and the Program shall have office space and telecommunications that protect the confidentiality of all complaint-related communications and records. [OAA 705(a)(6)(C), W&I 9725, W&I 25633(b)(2)(B)].
8. Each Local Ombudsman Program shall have information systems sufficient to run State-approved database systems and to receive and send confidential e-mail messages to and from the CDA. [OAA 712(C); W&I 9716].

C. Assurances Specific to Legal Services Providers (LSPs) in accordance with OAA 731.

The Contractor shall assure that the following conditions are met:

1. LSPs will coordinate with state-designated providers of Long-Term Care Ombudsman services by developing and executing a memorandum of understanding which will address conflict of interest, provision of legal advice, procedures for referral and other technical assistance.
2. LSPs may provide direct legal assistance to residents of the long-term care facilities where the clients are otherwise eligible and services are appropriate.

ARTICLE I. ASSURANCES SPECIFIC TO TITLE III, TITLE VII, AND COMMUNITY-BASED SERVICES PROGRAMS (Continued)

3. Where both legal and ombudsman services are provided by the same agency, providers must develop and follow policies and procedures to protect the integrity, resources, and confidentiality of both programs.
4. LSPs may assist the state in providing legal representation to the ombudsman program when an ombudsman or the program is named as a party or witness, in a subpoena, civil suit or other legal action challenging the performance of the official duties of the ombudsman.
5. LSPs are to coordinate with the local Legal Services Corporation (LSC) program, if the provider is not an LSC-funded program.
6. LSPs are to coordinate with the network of other service providers, including but not limited to, other LSPs, LTC ombudsman, HICAP, senior information and assistance, Adult Protective Services, law enforcement, case management services and focal points.
7. LSPs are to coordinate legal assistance activities with the statewide Hotline and private Bar, including groups within the private Bar furnishing services to older individuals on a pro bono or reduced fee basis.
8. LSPs are to use the Uniform Reporting System developed by the CDA in December 2007 to collect data on legal services provided.
9. Waiver of this section of the contract may be obtained from the CDA pursuant to Exhibit D, Article XV., of this Agreement entitled, "Revisions, Waivers, or Modifications."

ARTICLE II. REPORTING PROVISIONS

- A. The Contractor shall submit program performance reports for: Title III B, Title III C-1, Title III C-2, Title III E, Alzheimer's Day Care Resource Centers, Brown Bag, InfoVan, Linkages, Respite Purchase of Service, and Senior Companion Program, in accordance with CDA requirements [W&I Code 9102 (a)(5)], to the CDA Data Team.
- B. The Contractor shall assure that all performance data submitted is timely, complete, accurate, and verifiable using the Contractor approved reporting procedures.
 1. Contractor shall submit data for funded programs only. Do not send null reports (reports with all zeros because the program is not funded).
 2. Quarterly reports shall be submitted as follows:

ARTICLE II. REPORTING PROVISIONS (Continued)

| | Reporting Period | Due Date |
|-----------|------------------|------------|
| Quarter 1 | Jul-Sep | October 31 |
| Quarter 2 | Oct-Dec | January 31 |
| Quarter 3 | Jan-Mar | April 30 |
| Quarter 4 | Apr-Jun | July 31 |

3. Annual performance unit reports shall be submitted as follows:

| | Reporting Period | Due Date |
|--------|------------------|-----------|
| Annual | Jul-Jun | August 30 |

4. For late reports, the Contractor shall submit to the Data Team (DataTeam.reports@aging.ca.gov) a written explanation within 10 days of the due date. The explanation shall include the reasons for the delay and the estimated date the report will be submitted. For electronic CARS reports, the Contractor shall approve all data within 10 days of receipt of notification of passed status. If data in the CARS report is not correct and cannot be approved within 10 days, the Contractor will make a notation in the comments area of the CARS report and submit the data using the approved status button.

C. Reporting Requirements specific to Title III B, Title III C-1, Title III C-2, Title III D and Title III E services.

1. The contractor shall submit program data reports electronically according to the following:
 - a. All reports shall be submitted electronically to the CARS reporting system (ca.getcare.com).
 - b. All reports shall be submitted quarterly.

D. Reporting Requirements specific to Community-Based Service Programs (CBSP), specifically Alzheimer's Day Care Resource Centers, Linkages, and Senior Companion.

1. All performance reports shall be submitted quarterly.
2. Client Summary Profile Data File shall be submitted annually.
3. All reports shall be submitted electronically to the CDA Data Team (datateam.reports@aging.ca.gov).

ARTICLE II. REPORTING PROVISIONS (Continued)

- E. Reporting Requirements specific to Brown Bag, CA Legal Services (Title III B), InfoVan, and Respite Purchase of Service.
1. All performance reports shall be submitted quarterly.
 2. The Contractor shall submit paper reports by one method, either:
 - a. Via e-mail: (datateam.reports@aging.ca.gov) (preferred method);

OR
 - b. Via United States Postal Service (USPS) to: California Department of Aging, Data Team, 1300 National Dr, Ste. 200, Sacramento, CA 95834;

OR
 - c. Via Fax: 916-928-2510.
- F. The Contractor shall verify the accuracy of the data submitted to CDA for inclusion in the reports to the State Executive Branch, Legislative Branch, and federal government by reviewing and responding to the (1) NAPIS State Program Report (SPR), AoA/CARS Logic Error Report (2) Verification of State Performance Report Data, (3) Verification for Community-Based Service Programs (CBSP), (4) CBSP Logic Error Report, and (5) SPR/CBSP Questionable Data Error Report in accordance with CDA requirements.
1. The Contractor shall verify all quarterly and annual SPR and CBSP data for accuracy in accordance with CDA requirements.
 - a. The Contractor shall review all SPR and CBSP data for accuracy and make necessary corrections.
 - b. The Contractor shall complete the SPR and CBSP Verification forms indicating corrections submitted as a result of the verification process. The Director shall review and approve all corrections.
 - c. The Director shall complete and initial the SPR and CBSP verification forms.
 - d. The Contractor shall return the SPR and CBSP verification forms to CDA via e-mail (electronic signatures accepted) OR Fax OR USPS. Submission shall be by one method only, e-mail is preferred.
 - e. The SPR and CBSP verification forms are due no later than November 30, 2009.

ARTICLE II. REPORTING PROVISIONS (Continued)

2. The Contractor shall correct all CBSP Logic Errors and SPR/CBSP Questionable Data Errors in accordance with CDA requirements.
 - a. The Contractor shall submit electronic data corrections for errors identified in the Logic Error report.
 - b. The Contractor shall correct and/or explain Questionable Data Errors.
 - c. The Contractor shall return the Logic and Questionable Data Error Reports to CDA, verifying that corrections have been made, via e-mail OR Fax OR USPS. Submission shall be by one method only, e-mail is preferred.
 - d. The Logic and Questionable Data Error Reports are due no later than October 31, 2009.

- G. Reporting Provisions Specific to the Ombudsman Program:
 1. The Contractor shall take the following actions, or shall require its subcontractor, the Local Ombudsman Program, to enter data into the Internet-based National Ombudsman Reporting System (NORS) utilizing the Aging Network.com portal as required. NORS data entry must be timely, complete, accurate, and verifiable.
 - a. Data entry for quarterly NORS reports must be completed no later than one month following the end of the reporting quarter, i.e., October 31, January 31, April 30, and July 31, with copies of the aggregate data sent to the corresponding AAA.
 - b. Annual AoA reports shall be due to CDA and the corresponding AAA by August 30, 2009.
 - c. Complete information on the Aging Network.com portal on an ongoing basis and submit an email notification to the OSLTCO that data entry is complete by the quarterly/annual deadline.

- H. The Contractor shall have written reporting procedures specific to each program which include:
 1. Collection and reporting of program data for the Contractor and subcontractor;

ARTICLE II. REPORTING PROVISIONS (Continued)

2. Ensuring accuracy of all data from the Contractor and subcontractor;
 3. Verification of Contractor and subcontractor data prior to submission to the CDA Data Team;
 4. Correction procedures for Contractor and subcontractor; and
 5. A methodology for each non-registered service for collecting and reporting estimated unduplicated client counts.
- I. Contractor shall orient and train staff and subcontractor's staff regarding program data collection and reporting requirements. The Contractor shall have cross-trained staff in the event of planned or unplanned prolonged absences to ensure timely and accurate submission of data. [45 CFR 1321.55(b)]

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.
- B. Subcontractors of the Contractor may appeal the Contractor's final adverse determination relating to Title III and VII programs using the appeal process established in Title 22 CCR, Sections 7700 through 7710.
- C. Any dispute regarding an existing direct service contract or the procurement of the direct service contract shall be resolved locally, consistent with W & I Code Section 9535(k), and as specified in the procurement documents and contracts of the Contractor. Direct service contracts include all Community-Based Services Programs as defined in W & I Code Section 9540-9547.
- D. 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) of a program funded either by Title III and Title VII or a Community-Based Services Programs funded by the Older Californians Act. 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.

ARTICLE IV. TRANSITION PLAN (Continued)

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.
- 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. OBLIGATIONS UPON TERMINATION SPECIFIC TO THE OMBUDSMAN PROGRAM

- A. Transition of Local Ombudsman Services
1. Contractor shall, upon notice of termination of Ombudsman services, do the following:
 - a. If Ombudsman services are subcontracted, notify CDA in writing within three working days of a subcontractor's intent to terminate its contract to provide Ombudsman services.

ARTICLE V. OBLIGATIONS UPON TERMINATION SPECIFIC TO THE OMBUDSMAN PROGRAM (Continued)

2. Contractor shall identify in the Transition Plan which option it has chosen to ensure that there will be no break in continued services, based on the following:
 - a. Continue the mandated Ombudsman provisions as a direct service of the Contractor, utilizing experienced State Certified Ombudsman Representatives and a Local Program Coordinator selected by the Contractor and designated by the State Ombudsman to represent the Local Ombudsman Program.
 - b. Continue the mandated Ombudsman provisions as a subcontracted service with a subsequent provider selected in response to a Request for Proposals requiring the utilization of experienced State Certified Ombudsman Representatives, and designated by the State Ombudsman to carry out Ombudsman duties with respect to the planning or service area.

3. The Transition Plan shall at a minimum include the following:
 - a. Details of how Contractor shall maintain an adequate level of State Certified Ombudsman Representatives to ensure continuity of services during the transition to a subsequent Local Ombudsman Program.
 - b. Details of how Contractor shall notify all the impacted facilities and community referral sources of the change in the parties providing Local Ombudsman Program services.
 - c. Details of how Contractor shall deliver to the subsequent Local Ombudsman Program of a full inventory of updated confidential client records, public facility records, and records documenting Ombudsman certification and training.
 - d. Details of how Contractor shall destroy confidential Local Ombudsman Program records that will not be transferred to the subsequent Local Ombudsman Program.
 - e. A description of how the subsequent Local Ombudsman Program will be assisted in assessing the status of all active clients records at the point of transfer to ensure timely continuation of Ombudsman services.
 - f. A description of how residents and their families will be notified about the changes in their Ombudsman services provider.

ARTICLE V. OBLIGATIONS UPON TERMINATION SPECIFIC TO THE OMBUDSMAN PROGRAM (Continued)

- C. Contractor shall implement the transition plan as approved by the OSLTCO. The OSLTCO will monitor the Contractor's progress in carrying out all elements of the Transition Plan.

- D. If the Contractor fails to provide and implement the Transition Plan as required above, the Contractor agrees to implement a Transition Plan submitted by the OSLTCO to the Contractor. This Transition Plan may utilize State Certified Ombudsman Representatives from either the terminating subcontractor or from a neighboring Local Ombudsman Program.

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

| |
|---------------------------------------|
| AGREEMENT NUMBER HI-0910-30 |
| REGISTRATION NUMBER |


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

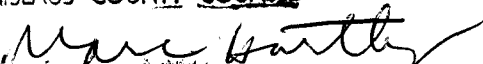
| |
|---|
| STATE AGENCY'S NAME California Department of Aging |
| CONTRACTOR'S NAME STANISLAUS COUNTY, DEPARTMENT OF AGING AND VETERAN SERVICES |
- The term of this Agreement is: July 1, 2009 (or, if applicable, when approved by DGS, Office of Legal Services, whichever is later.)
June 30, 2010
- The maximum amount of this Agreement is: **\$ 244,641.00**
Two hundred forty-four thousand six hundred forty-one and 00/100
- 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 and Payment Provisions | 7 page(s) |
| Exhibit C* – General Terms and Conditions | GTC 307 |
| Check mark one item below as Exhibit D: | |
| <input checked="" type="checkbox"/> Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement) | 26 page(s) |
| <input type="checkbox"/> Exhibit - D* Special Terms and Conditions | |
| Exhibit E – Additional Provisions | 5 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 | | <input checked="" type="checkbox"/> Exempt per: Mello Grunland Older Californians Act |
| 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 | | |

APPROVED AS TO FORM:
 STANISLAUS COUNTY COUNSEL
 BY 

Scope of Work - Exhibit A
Health Insurance Counseling and Advocacy Program (HICAP)

ARTICLE I. DEFINITIONS SPECIFIC TO HICAP PROGRAM

- A. **Health Insurance Counseling and Advocacy Program (HICAP)**, is defined in State law, Welfare and Institutions Code (W&I), Section 9541.
- B. **State Health Insurance Assistance Program (SHIP)**, is defined by the Centers for Medicare and Medicaid Services (CMS). This term may be used interchangeably with **HICAP**.
- C. **Eligible Service Population** means (a) Medicare Beneficiaries, including Medicare Beneficiaries by virtue of a disability, and those persons imminent of Medicare eligibility [W&I Code, Section 9541 (a) and (c)(2)], (b) the public at large for HICAP community education services [W&I Code, Section 9541, (c)(1),(4),(5), and (6)].

ARTICLE II. SCOPE OF WORK

The Contractor shall perform the following if operating as a direct HICAP program; for a HICAP contracted program the Contractor shall ensure that the subcontractor shall perform the following:

- A. Ensure statutory provisions of the HICAP (W&I Code, Section 9541) are met and services provided in accordance with all applicable laws, regulations, and the HICAP Program Manual as issued by the CDA and in any other subsequent program memos, provider bulletins or similar instructions issued during the term of this Agreement.
- B. Maintain and if applicable distribute an up-to-date HICAP Program Manual and related CDA requirements so that all HICAP Counselors and responsible persons have ready access to standards, policies, and procedures. Additionally, all Counselors shall be provided the latest HICAP Counselor Handbook. [W&I Code, Section 9100 (c) & (d); Section 9541 (b)(1) & (2)].
- C. Provide timely notice to CDA or to the Contractor of any changes to the program or changes in the status of the Contractor or subcontractor that could restrict the operations of, or access to, HICAP services including, but not limited to, personnel changes, program or project phone number changes, headquarters office address changes and mailing address changes. If subcontracted, the Contractor will forward this information to CDA.
- D. Submit the name of the HICAP Program Manager to CDA and/or to the Contractor within 30 days of initial employment.
- E. Recruit and maintain a strong, well-trained, cadre of volunteer Counselors, Long-Term Care Counselors, Long Term Care Community Educators and General Community Educators [W&I Code Section 9541 (c)(7)]. New Counselors shall

Scope of Work - Exhibit A
Health Insurance Counseling and Advocacy Program (HICAP)

ARTICLE II. SCOPE OF WORK (Continued)

be recruited, trained, apprenticed, and registered as needed to adjust for attrition and to maintain the agreed upon performance levels in the latest Area Plan Service Unit Plans.

- F. Standard HICAP work week business hours, open to the public, shall be five days a week, Monday through Friday, at least 9 a.m. to 4 p.m., except holidays.
- G. Telephone access by the public shall be during normal business hours, Monday through Friday, 9 a.m. through 4 p.m. In the event clients cannot receive personal assistance immediately, they shall be offered an opportunity to leave their name, a message, and return telephone number with an answering service or answering machine. Calls from clients leaving messages shall be returned within 48 hours, excluding weekends and holidays.
- H. Provide a disclosure statement to counseling clients prior to counseling, as prescribed by CDA in the HICAP Program Manual [W&I Code, Section 9541 (f)(4)].
- I. Provide a community education campaign designed to inform the public about Medicare, Medicare supplement and long-term care insurance options, Medicare Advantage plans, related health care plans, and insurance topics [W&I Code Section 9541(c)(1),(4),(5), & (6)].
- J. Refer instances of suspected misrepresentation in advertising or sales of services provided by Medicare, managed health care plans, and life and disability insurers and agents, in accordance with the HICAP Manual [W&I Code, Section 9541 (e)].
- K. The Program Manager and/or designated representative shall attend all CDA required HICAP training sessions or conferences conducted during each fiscal year, in order to maintain program knowledge, efficiency, and competency [W&I Code Section 9541, (f)(7)].
- L. Maintain a program data collection and reporting system as specified in Exhibit E.
- M. Meet the minimum performance requirements in the Service Unit Plan which reflect CMS' Median Benchmark Measures (Federal State Health Insurance Assistance Program (SHIP) Grant HHS-2008-CMS-CONT-SHIP, February 19, 2008; Exhibit E, page 17.), as stipulated in the annual Planning Estimates Program Memo, which include:

Scope of Work - Exhibit A
Health Insurance Counseling and Advocacy Program (HICAP)

ARTICLE II. SCOPE OF WORK (Continued)

1. Beneficiaries reached per 10,000 beneficiaries in the PSA(s).
 2. One-on-one contacts per 10,000 beneficiaries in the PSA(s).
 3. Beneficiaries with disability contacts per 10,000 beneficiaries with disabilities in the PSA(s).
 4. Low-income contacts per 10,000 low-income population (beneficiaries) in the PSA(s).
 5. Enrollment and assistance contacts per 10,000 beneficiaries in the PSA(s).
 6. Part D enrollment and assistance contacts per 10,000 beneficiaries in the PSA(s).
 7. Total Counselor FTE's per 10,000 beneficiaries in the PSA(s).
 8. Percent of Active SHIP Counselors that participate in update trainings in the PSA(s).
- N. Provide timely input to the State HICAP Office (upon request) of any SHIP or CMS required reports, including, but not limited to, the SHIP Grant Application, Supplemental Grant Funding Applications, and the SHIP Grant Mid-term Report.
- O. If the Contractor is directly providing or subcontracting legal services, which is funded by the HICAP program, the Contractor or subcontractor shall perform the following
1. Provide HICAP legal representation and technical program support by or under the direction of a Supervising Attorney who is trained in Medicare law and who is in good standing with the California Bar.
 2. Legal representation services shall be limited to Medicare, Medicare Part D issues, Medicare savings programs, low-income subsidy issues, long-term care insurance, managed care, and related health care coverage plans.
 3. HICAP legal representation shall be subject to the understanding that the legal representation and legal advocacy shall not include the filing of lawsuits against private insurers or managed health care plans.
 4. Contracted legal representation services shall not commence without a formal referral from the HICAP Program Manager to the Supervising

Scope of Work - Exhibit A
Health Insurance Counseling and Advocacy Program (HICAP)

ARTICLE II. SCOPE OF WORK (Continued)

Attorney, and only after a preliminary counseling session determines the need for referral.

5. The Supervising Attorney shall report the performance of legal services in accordance with the HICAP Reporting Instructions available at www.aging.ca.gov.
- P. In addition to the conditions above, the Contractor shall perform the following if subcontracting for HICAP program services:
1. Enter into contracts with subcontractors to operate the HICAP and provide HICAP counseling, informal advocacy, education and legal representation to Medicare beneficiaries within the contracted service area pursuant to W&I Code, Chapters 7 and 7.5, the HICAP Program Manual as issued by CDA and in any other subsequent program memos, provider bulletins or similar instructions issued during the term of this Agreement.
 2. 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.
 3. Review, approve, and monitor subcontractor budgets and expenditures and any subsequent amendments and revisions to budgets. Contractor shall, to the extent feasible, ensure that all budgeted funds are expended by the end of each fiscal year.
 4. Annually conduct onsite monitoring, evaluate and document subcontractor performance and compliance with this Agreement. [45 CFR Part 1321.11]
 5. 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.

ARTICLE III. BILINGUAL AND LINGUISTIC PROGRAM SERVICES (GC 11135 - 11139.5; Title 22 CCR Sections 98211, 98310-98314, 98324- 98326, 98340, 98370)

A. Needs Assessment

1. Contractor shall conduct a cultural and linguistic group-needs assessment of the eligible client population in the Contractor's service area to assess the language needs of the population and determine what reasonable steps are necessary to ensure meaningful access to services and activities to eligible individuals. (Title 22 CCR 98310, 98314)

Scope of Work - Exhibit A
Health Insurance Counseling and Advocacy Program (HICAP)

ARTICLE III. BILINGUAL AND LINGUISTIC PROGRAM SERVICES (Continued)

The group-needs assessment shall take into account the following four factors:

- a. Number or proportion of limited English speaking (LEP) persons eligible to be served or likely to be encountered by the program.
- b. Frequency with which LEP individuals come in contact with the program.
- c. Nature and importance of the services provided to people's lives.
- d. Resources available to the Contractor.

This group-needs assessment will serve as the basis for Contractor's determination of "reasonable steps" and provide documentary evidence of compliance with GC Section 11135 et seq., and Sections 98000-98382 of Title 22 of the CCR.

2. Contractor shall prepare and make available a report of the findings of the group-needs assessment that summarizes the items listed below:
 - a. Methodologies used.
 - b. Findings regarding linguistic and cultural needs of non-English or LEP groups.
 - c. Services proposed to address the needs identified and a timeline for implementation. (Title 22 CCR 98310)
3. Contractor shall maintain a record of the group-needs assessment on file at the Contractor's headquarters at all times during the term of this Agreement. (Title 22 CCR 98310, 98313)

B. Provision of Services

1. Contractor shall take reasonable steps, based upon the group-needs assessment identified in subdivision A of this section, to ensure that "alternative communication services" are available to non-English speaking or LEP beneficiaries of services under this Agreement. (Title 22 CCR 98211)
2. "Alternative communication services" include, but are not limited to, the provision of services and programs by means of the following:
 - a. Interpreters or bilingual providers and provider staff.
 - b. Contracts with interpreter services.

Scope of Work - Exhibit A
Health Insurance Counseling and Advocacy Program (HICAP)

ARTICLE III. BILINGUAL AND LINGUISTIC PROGRAM SERVICES (Continued)

- c. Use of telephone interpreter lines.
 - d. Sharing of language assistance materials and services with other providers.
 - e. Translated written information materials, including but not limited to, enrollment information and descriptions of available services and programs.
 - f. Referral to culturally and linguistically appropriate community service programs.
- 3. Based upon the findings of the group needs assessment, Contractor shall ensure that reasonable alternative communication services are available to meet the linguistic needs of identified eligible client population groups at key points of contact. Key points of contact include, but are not limited to, telephone contracts, office visits and in-home visits. (Title 22 CCR 98211)
 - 4. Contractor shall self-certify to compliance with the requirements of this section and shall maintain the self-certification record on file at Contractor's office at all times during the term of this Agreement. (Title 22 CCR 98310)
 - 5. Contractor shall notify its employees of clients' rights regarding language access and Contractor's obligation to ensure access to alternative communication services where determined appropriate based upon the needs assessment conducted by Contractor. (Title 22 CCR 98324)
 - 6. Noncompliance with this section may result in suspension or termination of funds and/or termination of this Agreement. (Title 22 CCR 98370)
- C. Compliance Monitoring
- 1. Contractor shall develop and implement policies and procedures for assessing and monitoring the performance of individuals and entities that provide alternative communication services to non-English and LEP clients. (Title 22 CCR 98310)
 - 2. Contractor shall monitor, evaluate, and take effective action to address any needed improvement in the delivery of culturally and linguistically appropriate services. (Title 22 CCR 98310)
 - 3. Contractor shall permit timely access to all records of compliance with this section. Failure to provide access to such records may result in appropriate sanctions. (Title 22 CCR 98314)

Scope of Work - Exhibit A
Health Insurance Counseling and Advocacy Program (HICAP)

ARTICLE III. BILINGUAL AND LINGUISTIC PROGRAM SERVICES (Continued)

D. Notice to Eligible Beneficiaries of Contracted Services

1. Contractor shall designate an employee to whom initial complaints or inquiries regarding national origin can be directed. (Title 22 CCR 98325)
2. Contractor shall make available to ultimate beneficiaries of contracted services and programs information regarding the Department's procedure for filing a complaint and other information regarding the provisions of GC Section 11135 et seq. (Title 22 CCR 98326)
3. Contractor shall notify the Department immediately of a complaint alleging discrimination based upon a violation of State or federal law. (Title 22 CCR 98211, 98310, 98340)

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-10**

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 kept 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
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-10**

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 and 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 is contingent upon appropriation by the Legislature or Congress for the purposes of this contract and approval of an itemized HICAP Budget (CDA 229). 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 purpose of this program, the State shall have the option to either:

- Terminate the Contractor 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 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 (2) some contracts may be reduced by a greater amount than others, and (3) that the State shall determine at its

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-10**

ARTICLE I. FUNDS (Continued)

sole discretion the amount that any or all of the contracts shall be reduced for the fiscal year.

E. Interest Earned

1. Nonprofit entities shall maintain advances of federal funds in interest bearing accounts, unless (a), (b), or (c) apply.
 - a. The recipient receives less than \$120,000 in federal awards per year.
 - b. The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on federal cash balances.
 - c. 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.
2. 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. One-Time-Only Funds

One-Time-Only funds are to be used for the purposes for which they were originally allocated.

ARTICLE II. BUDGET AND BUDGET REVISION

- A. The Contractor shall be compensated for expenses only as itemized in the approved HICAP Budget (CDA 229) and shall not be entitled to payment for these expenses until the HICAP Budget (CDA 229) is reviewed and approved by the Department. The approved HICAP Budget is hereby incorporated by reference into this Agreement as a part of Exhibit B.
- B. The CDA 229 must set forth in detail the reimbursable items, unit rates and extended total amounts for each line item. The Contractor's budget shall include, at a minimum, the following items when reimbursable under this Agreement:
 1. Direct and overhead costs.
 2. Monthly, weekly, or hourly rates, as appropriate and personnel classifications together with the percentage of personnel time to be charged to this Agreement, as well as fringe benefits.
 3. Rental reimbursement items should specify the unit rate, such as the rate per square foot.
 4. If purchase of equipment is a reimbursable item, the equipment to be purchased should be specified.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-10**

ARTICLE II. BUDGET AND BUDGET REVISION (Continued)

5. Any travel outside the State of California.
 6. A detailed list of other operating expenses.
- C. The Contractor shall ensure that the subcontractor shall submit a budget, which shall be incorporated by reference into the subcontract and will have, at a minimum, the categories listed in Section B, above.
- D. The Contractor may make changes in budget allocations, subject to the following conditions:
1. The Contractor may transfer contract funds from each line item under the following terms and conditions:
 - a. The Contractor may transfer contract funds within each line item without prior approval from the Department providing the change is less than \$1,000.
 - b. The Contractor shall submit a revised budget to the Department for any line item transfer of funds that is 10% or more and greater than \$1,000 for each line item.
 2. The Contractor shall maintain a written record of all budget changes and clearly document line item changes. The record shall include the date of the transfer, the amount, and the purpose. This record shall be available to the Department upon request and shall be maintained in the same manner as all other financial records.
 3. Allocations for program costs may not be transferred to the AAA administration allocation.
 4. In the event that programs are changed from DIRECT to CONTRACTED or CONTRACTED to DIRECT, the Contractor shall submit a revised budget to the Department, prior to implementation of said change. An amendment to this Agreement shall be required in accordance with Exhibit D, Article XV.
- E. The final date to submit budget revisions is May 1 of the contract period unless otherwise specified by the Department. The Department will not accept any budget revision after the contract period has expired.

ARTICLE III. PAYMENT

- A. The Contractor shall prepare and submit by the 30th of each month to the AAA-Based Team, in electronic format, a Detailed Expenditure Data File (CBSP 107), unless otherwise specified by the Department.
- B. Advance Payments
1. The Contractor may request one advance payment within the first quarter of the fiscal year, which shall not exceed twenty-five percent (25%) of the

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-10**

ARTICLE III. PAYMENT (Continued)

total amount awarded for each program under the terms of this Agreement, unless otherwise specified by the Department. To receive an advance payment, the Contractor shall submit, in electronic format, an annual Request for Advance Data File (CBSP 108).

2. Beginning with the October CBSP 107, one-sixth of the advance payment shall be deducted each month from amounts due the Contractor, until the advance is fully liquidated.
3. If at the time of the Closeout Report for each fiscal year, or upon completion or termination of this Agreement, the advance payment has not been fully liquidated, the Contractor agrees to pay the balance to the Department immediately upon written demand.
4. If the Contractor has received an advance payment, the Contractor shall advance to the subcontractor, upon execution of the subcontract, one advance payment of up to twenty-five percent (25%) of the subcontract amount.

C. Monthly Reimbursement Payments

1. The Contractor shall submit a CBSP 107 to the Department no later than thirty (30) days after the close of the month for which expenditures occurred.
2. The Contractor shall be reimbursed for actual cash expenditures beginning with the July CBSP 107.

D. The Contractor shall ensure the implementation of policy and procedures developed by the Department whereby the subcontractors report expenditures and request payment monthly in arrears for actual expenses incurred, beginning with the July expenditure report.

E. The Department shall pay the Contractor a total not to exceed the amount shown on the Budget Display, which is hereby incorporated by reference.

F. 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
6. Source Documentation
7. Cash Management

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-10**

ARTICLE IV. CLOSEOUT

The HICAP Financial Closeout Report (CDA 230) shall be submitted annually, to the AAA-Based Team, within forty-five (45) calendar days following the end of the fiscal year, or within thirty (30) days following termination prior to the end of the contract period.

| | | | | |
|---|-----------------------------|--------------------------|----------------|-----------------------|
| State of California | Award#: | HI-0910-30 | | |
| California Department of Aging | Date: | 07/01/09 | | |
| CDA 303 (New 12/05) | Amendment #: | 0 | | |
| Exhibit B - Budget Detail, Payment Provisions and Closeout HEALTH INSURANCE COUNSELING AND ADVOCACY PROGRAM Budget Display Fiscal Year 2009/10 Stanislaus County, Department of Aging and Veteran Services | | | | |
| | PROGRAM BASELINE | ONE-TIME ONLY | TOTAL | NET CHANGE |
| HICAP Program | | | | |
| HICAP Fund | 54,839 | - | 54,839 | - |
| Reimbursements (Ins Fund) | 109,693 | - | 109,693 | - |
| Federal SHIP Rural Funds | 1,395 | - | 1,395 | - |
| Federal SHIP Funds | 63,012 | - | 63,012 | - |
| TOTAL HICAP Program | 228,939 | - | 228,939 | - |
| HICAP Administration | | | | |
| HICAP Fund | 3,087 | - | 3,087 | - |
| Reimbursements (Ins Fund) | 6,178 | - | 6,178 | - |
| Federal SHIP Rural Funds | 139 | - | 139 | - |
| Federal SHIP Funds | 6,298 | - | 6,298 | - |
| TOTAL Administration | 15,702 | - | 15,702 | - |
| Grand Total All Funds | 244,641 | - | 244,641 | - |
| Funding Summary | | | | |
| HICAP Fund | 57,926 | - | 57,926 | - |
| Reimbursements (Ins Fund) | 115,871 | - | 115,871 | - |
| Federal SHIP Rural Funds | 1,534 | - | 1,534 | - |
| Federal SHIP Funds | 69,310 | - | 69,310 | - |
| Total Funds | 244,641 | - | 244,641 | - |

**Special Terms and Conditions - Exhibit D
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-2010**

ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS

- A. The term "Agreement" or "Contract" shall mean the Standard Agreement, (Std. 213), exhibits A,B,C,D, and E, an approved Health Insurance Counseling Advocacy Program (HICAP) Budget, which is hereby incorporated by reference , and amendments, unless otherwise provided in this Article.
- B. In the event of any inconsistency between the articles, attachments, or provisions which constitute this contract, the following order of precedence shall apply:
1. Contract form, Standard Agreement, etc., and any amendments thereto;
 2. Scope of Work;
 3. Special terms and conditions including Exhibit D;
 4. General terms and conditions, including Exhibit C; and
 5. All other attachments incorporated herein by reference.
- C. The Contractor shall comply with program memos and other guidance issued by the Department. In the event of conflict between the program memos and/or other Department guidance and the provisions in this Agreement, the provisions in this Agreement shall prevail.
- D. "State" and "Department," mean the State of California and the California Department of Aging (CDA) interchangeably.
- E. "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.
- F. "Subcontractor" means the legal entity that receives funds from the Contractor under this Agreement.
- G. "Reimbursable item" also means "allowable cost" and "compensable item."
- H. "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.
- I. "Program income" means revenue generated by the Contractor or subcontractor from contract-supported activities. Program income is:

**Special Terms and Conditions - Exhibit D
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-2010**

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

1. Voluntary contributions received from a participant or responsible party as a result of the service.
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.
4. Proceeds from the sale of items fabricated under a contract agreement.

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 (CCC307) 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 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.

**Special Terms and Conditions - Exhibit D
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-2010**

ARTICLE II. ASSURANCES (Continued)

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, 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.

**Special Terms and Conditions - Exhibit D
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-2010**

ARTICLE II. ASSURANCES (Continued)

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).
5. Public Contract Code Section 10295.3

**Special Terms and Conditions - Exhibit D
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-2010**

ARTICLE II. ASSURANCES (Continued)

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
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-2010

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
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-2010**

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, 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.

Special Terms and Conditions - Exhibit D
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-2010

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
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-2010**

ARTICLE V. SUBCONTRACTS (Continued)

- 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 sub-contracted 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.

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.

**Special Terms and Conditions - Exhibit D
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-2010**

ARTICLE VI. RECORDS (Continued)

- 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 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.

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ARTICLE VII. PROPERTY (Continued)

- 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;
 - 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

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ARTICLE VII. PROPERTY (Continued)

Furnished/Purchased with Agreement Funds (CDA 32) to report property to the Department, 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.
- 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

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ARTICLE VII. PROPERTY (Continued)

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.

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

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ARTICLE X. AUDITS (Continued)

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 in the Schedule of Expenditures of Federal Awards in the audit, the federal grantor is U.S. Department of Health and Human Services. The Catalog of Federal Domestic Assistance Number is 93.779. 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 number 93.779.

- 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 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:

1. Ensuring that subcontractors expending \$500,000 or more in Federal Awards during the subcontractor's fiscal year have 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 that is 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

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ARTICLE X. AUDITS (Continued)

(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.
 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 subcontractors. Further, subcontractors 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

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ARTICLE X. AUDITS (Continued)

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.
- 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:

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ARTICLE XI. INSURANCE (Continued)

\$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 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.

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ARTICLE XI. INSURANCE (Continued)

- 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 excluding professional liability 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 or letter of self-insurance, referencing this Agreement Number 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 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:

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ARTICLE XII. TERMINATION (Continued)

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.
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

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ARTICLE XII. TERMINATION (Continued)

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 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.

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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.
- 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.

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ARTICLE XVII. DEPARTMENT CONTACT

- 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 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

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ARTICLE XVIII. Information Integrity and Security (Continued)

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 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

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ARTICLE XVIII. Information Integrity and Security (Continued)

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.

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.

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ARTICLE XVIII. Information Integrity and Security (Continued)

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 (2) and (3) 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 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

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ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA (Continued)

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."

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Additional Provisions—Exhibit E
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-10

ARTICLE I. ASSURANCES SPECIFIC TO HICAP

- A. The Contractor shall assure, either as a direct or contracted HICAP, that the following conditions are met:
1. Services are provided only to the defined Eligible Service Population.
 2. Contributions. No fees may be charged for services although contributions or donations may be requested. Signs and literature about the HICAP services may indicate that donations are welcome and may suggest donation amounts. HICAP clients are not to be pressured to make donations. All contributions or donations, either in cash or in goods and services, provided specifically to the HICAP, shall be spent on activities related to HICAP. Voluntary contributions received from a client or responsible party for services rendered by HICAP shall be reported as HICAP Program Income.
 3. Management Capacity. Staffing shall be adequate to cover all contract requirements and timelines of the Program. The Program Manager shall manage the program at least 32 hours per week. The equivalent of at least one half-time paid Volunteer Coordinator shall assist the Program Manager in coordinating the activities of volunteers.
 4. Program Manager Authority. Assure that the Program Manager for HICAP has general oversight of the HICAP services and sole authority to recommend persons for HICAP Counselor registration, to file industry complaints and, to refer HICAP clients to legal services.
 5. Registered Counselors. Provide that all persons affiliated with the program and who are counseling, including paid personnel and volunteers, are trained and registered with the State as HICAP Counselors in accordance with law, regulation, and Section 106 of the HICAP Program Manual.
 6. Confidential Records. All records containing confidential client information shall be handled in a confidential manner, in accordance with the requirements for monitoring, audits and confidentiality, Exhibit D, Articles IX and X. Confidential records shall be collected no less than annually from the field. This includes individual Intake/Counseling Forms of persons being counseled exceeding the maximum counseling period of twelve (12) months as defined in the HICAP Program Manual, Section 4, subsection 4.1. Maintain confidential records until an audit has occurred and an audit resolution has been issued, unless a longer retention period is otherwise authorized in writing by the Department's Audit Branch or

Additional Provisions—Exhibit E
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-10

ARTICLE I. ASSURANCES SPECIFIC TO HICAP (Continued)

required by law. After that period of authorization, confidential records shall be destroyed by shredding and disposed of in a manner that will maintain confidentiality.

- B. The Contractor shall assure, either as a direct or contracted HICAP, compliance with the State Conflict of Interest Requirements as follows:
1. The Contractor shall assure that project staff and volunteers do not engage in the solicitation of insurance, nor endorse any Medicare supplement, long-term care, or other insurance policies or plans, nor endorse the services of any insurer or managed care plan, claims processing organization, or other enterprise that could benefit from activities conducted by the HICAP. All project staff and volunteers shall provide HICAP educational services in a manner that is objective and impartial and provide counseling consistent with the best interests of the clients and which preserves the independent decision-making responsibilities of the client.
 2. The Contractor shall assure that the project, project staff, and volunteers shall not have a conflict of interest such as, but not limited to, a business relationship with insurers, health plans, or organizations posing a conflict of interest. The Contractor shall assure that project staff and volunteers do not accept money or gifts from the clientele in exchange for services in accordance with Department guidance on conflict of interest and the HICAP Program Manual.
 3. The Contractor shall take all reasonable and necessary measures to assure that advisors, employees, and volunteers associated with the operation of HICAP agree to act in a manner so as to prevent the appearance of impropriety, or any other act which would place in jeopardy HICAP's reputation as an independent and impartial program. The Contractor shall assure that advisors and governing board members shall recuse themselves from HICAP business if they are employed by, or receive compensation from, the health insurance or managed health care industries. This shall not preclude the Contractor from soliciting program contributions from entities that do not pose a conflict of interest.

ARTICLE II. REPORTING PROVISIONS

- A. The Contractor shall submit, either as a direct or contracted HICAP, program performance reports in accordance with Department requirements to the CDA

**Additional Provisions—Exhibit E
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-10**

ARTICLE II. REPORTING PROVISIONS (Continued)

Data AAA-Based Team [W&I Code, Section 9541(c)(8)]. Data reported must be timely, complete, accurate, and verifiable.

1. Contractor shall submit program performance report on the Quarterly Aggregate HICAP Report (CDA 1005).
2. The Contractor, either as a direct or contracted HICAP, shall submit Quarterly Aggregate HICAP Report (CDA 1005) by one method, either:
 - a. Via E-mail to: datateam.reports@aging.ca.gov. (preferred method);

OR

- b. VIA USPS: California Department of Aging, Data Team, 1300 National Drive, Suite 200, Sacramento, CA 95834.

OR

- c. Via Fax: 916-928-2510

B. The Contractor shall, either as a direct or contracted HICAP, assure that all data submitted is timely, complete, accurate, and verifiable using the Contractor approved reporting procedures.

1. Contractor shall submit data for each individual PSA covered by this contract and shall not combine reports.
2. Quarterly Aggregate HICAP Report shall be submitted as follows:

| | Reporting Period | Due Date |
|-----------|------------------|------------|
| Quarter 1 | Jul-Sep | October 31 |
| Quarter 2 | Oct-Dec | January 31 |
| Quarter 3 | Jan-Mar | April 30 |
| Quarter 4 | Apr-Jun | July 31 |

3. For late reports, the Contractor shall submit to the Data Team (DataTeam.reports@aging.ca.gov) a written explanation within 10 days of the due date. The explanation shall include the reasons for the delay and the estimated date the report will be submitted.

Additional Provisions—Exhibit E
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-10

ARTICLE II. REPORTING PROVISIONS (Continued)

- C. The Contractor shall, either as a direct or contracted HICAP, have written reporting procedures specific to the HICAP program which include:
1. Collection and reporting of program data for the Contractor;
 2. Ensuring accuracy of data from the Contractor and subcontractor intake/assessment process through reporting to the Data Team;
 3. Verification of Contractor and subcontractor data prior to submission to the Data Team; and
 4. Correction procedures for Contractor and subcontractor.
- D. Contractor, either as a direct or contracted HICAP, shall train and orient staff and subcontractor's staff regarding program data collection and reporting requirements. The Contractor shall have MIS cross-trained staff in the event of planned or unplanned prolonged absences to ensure timely and accurate submission of data. [45 CFR 1321.55(b)]

ARTICLE III. CONTINUITY OF SERVICE AND TRANSITION PLAN

A. Continuity of Service

In the event of a change in HICAP subcontractors, the Contractor shall assure that a subsequent HICAP subcontractor is available to complete any open cases or transactions during the transition period. This shall include Medicare appeals and timelines with CMS or hearing officers.

B. Transition Plan

In the event there is a change in the HICAP service provider, either as a result of a routine procurement process or a termination by the service provider, the Contractor shall submit a transition plan to the Department within 20 days of a written Notice of Termination to the outgoing service provider or within 20 days of a written Notice of Termination from the outgoing service provider. The transition plan must be approved by the Department and shall at a minimum include the following:

1. A description of how open or active counseling and legal cases (if applicable) shall be transitioned from the out-going service provider to the incoming service provider.

Additional Provisions—Exhibit E
Health Insurance Counseling and Advocacy Program (HICAP)
Fiscal Year 2009-10

ARTICLE III. CONTINUITY OF SERVICE AND TRANSITION PLAN (Continued)

2. A description of how names, addresses, and telephone numbers of current clients will be handled and transferred to the new subcontractor.
 3. A description of how clients will be notified about the change in their HICAP service provider.
 4. Description of how the new subcontractor will communicate with other HICAP sites, local agencies and advocacy organizations that can assist in locating alternative services.
 5. A description of how the new subcontractor will inform community referral sources of the pending termination of this HICAP contract and the transition to the in-coming HICAP service provider.
 6. A description of how to transfer sensitive and confidential records to a new subcontractor.
 7. A description of adequate staff to provide continued service through the term of the existing subcontract.
 8. A full inventory and a plan to dispose of, transfer, or return to the Department all equipment purchased during the entire operation of the Contract.
 9. Additional information as necessary to effect a safe transition of clients from the outgoing service provider to the new service provider.
- C. 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.

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

| |
|---------------------------------------|
| AGREEMENT NUMBER TV-0910-30 |
| REGISTRATION NUMBER |



- 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 | |
- The term of this Agreement is: July 1, 2009 (or, if applicable, when approved by DGS, Office of Legal Services, whichever is later.)
June 30, 2010
- The maximum amount of this Agreement is: **\$ 115,797.00**
One hundred fifteen thousand seven hundred ninety-seven and 00/100
- 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 | 10 page(s) |
| Exhibit B – Budget Detail and Payment Provisions | 7 page(s) |
| Exhibit C* – General Terms and Conditions | GTC 307 |
| Check mark one item below as Exhibit D: | |
| <input checked="" type="checkbox"/> Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement) | 25 page(s) |
| <input type="checkbox"/> Exhibit - D* Special Terms and Conditions | |
| Exhibit E – Additional Provisions | 5 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 | | <input checked="" type="checkbox"/> Exempt per: Mello Grunland Older Californians Act |
| 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 | | |
| APPROVED AS TO FORM: STANISLAUS COUNTY COUNSEL | | |

BY 

Scope of Work – Exhibit A
Title V – Fiscal Year 2009-10

ARTICLE I. DEFINITIONS

- A. **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].
- B. **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].
- C. **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)].
- 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)

Scope of Work – Exhibit A
Title V – Fiscal Year 2009-10

ARTICLE I. DEFINITIONS (Continued)

- 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 the 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
Title V – Fiscal Year 2009-10

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
Title V – Fiscal Year 2009-10**

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, 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 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 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)].

Scope of Work – Exhibit A
Title V – Fiscal Year 2009-10

ARTICLE II. SCOPE OF WORK (Continued)

3. 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)].
4. 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)].
5. 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)].
6. 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)
7. 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)].
8. 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)
9. 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)
10. 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)

**Scope of Work – Exhibit A
Title V – Fiscal Year 2009-10**

ARTICLE II. SCOPE OF WORK (Continued)

11. Participate in the development of the SCSEP State Plan. Local activities must support the strategic focuses outlined in the SCSEP State Plan. [20 CFR 641.315(a)]
 12. 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)].
 13. 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]
 14. 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]
 15. 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)].
 16. Use the program data collection and reporting system as required in Exhibit E by the Department. [OAA Section 503(f)(3)(4)].
 17. 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
3. Service to Most-in-Need
4. Employment Retention (6 months)
5. Community Service Hours
6. Earnings

**Scope of Work – Exhibit A
Title V – Fiscal Year 2009-10**

ARTICLE II. SCOPE OF WORK (Continued)

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.
- D. The Contractor shall perform the following bilingual and linguistic program services for all programs: (GC 11135 -11139.5; Title 22 CCR Sections 98211, 98310-98314, 98324- 98326, 98340, 98370)
1. Needs Assessment
 - a. Contractor shall conduct a cultural and linguistic group-needs assessment of the eligible client population in the Contractor's service area to assess the language needs of the population and determine what reasonable steps are necessary to ensure meaningful access to services and activities to eligible individuals. (22 CCR 98310, 98314)

The group-needs assessment shall take into account the following four factors:

- 1) Number or proportion of limited English speaking persons (LEP) eligible to be served or likely to be encountered by the program.
- 2) Frequency with which LEP individuals come in contact with the program.
- 3) Nature and importance of the services provided to people's lives.

**Scope of Work – Exhibit A
Title V – Fiscal Year 2009-10**

ARTICLE II. SCOPE OF WORK (Continued)

- 4) Resources available to the Contractor.

This group-needs assessment will serve as the basis for Contractor's determination of "reasonable steps" and provide documentary evidence of compliance with GC Section 11135 et seq. and sections 98000-98382 of Title 22 of the CCR.

- b. Contractor shall prepare and make available a report of the findings of the group-needs assessment that summarizes the items listed below:
 - 1) Methodologies used.
 - 2) Findings regarding linguistic and cultural needs of non-English or LEP groups.
 - 3) Services proposed to address the needs identified and a timeline for implementation. (Title 22 CCR 98310)
- c. Contractor shall maintain a record of the group-needs assessment on file at the Contractor's headquarters at all times during the term of this Agreement. (Title 22 CCR 98310, 98313)

2. Provision of Services

- a. Contractor shall take reasonable steps, based upon the group-needs assessment identified in subdivision A of this section, to ensure that "alternative communication services" are available to non-English speaking or LEP beneficiaries of services under this Agreement. (Title 22 CCR 98211)
- b. "Alternative communication services" include, but are not limited to, the provision of services and programs by means of the following:
 - 1) Interpreters or bilingual providers and provider staff.
 - 2) Contracts with interpreter services.
 - 3) Use of telephone interpreter lines.
 - 4) Sharing of language assistance materials and services with other providers.
 - 5) Translated written information materials, including but not limited to, enrollment information and descriptions of available services and programs.

**Scope of Work – Exhibit A
Title V – Fiscal Year 2009-10**

ARTICLE II. SCOPE OF WORK (Continued)

- 6) Referral to culturally and linguistically appropriate community service programs.
 - c. Based upon the findings of the group needs assessment, Contractor shall ensure that reasonable alternative communication services are available to meet the linguistic needs of identified eligible client population groups at key points of contact. Key points of contact include, but are not limited to, telephone contracts, office visits, and in-home visits. (Title 22 CCR 98211)
 - d. Contractor shall self-certify to compliance with the requirements of this section and shall maintain the self-certification record on file at Contractor's office at all times during the term of this Agreement. (Title 22 CCR 98310)
 - e. Contractor shall notify its employees of clients' rights regarding language access and Contractor's obligation to ensure access to alternative communication services where determined appropriate based upon the needs assessment conducted by Contractor. (Title 22 CCR 98324)
 - f. Noncompliance with this section may result in suspension or termination of funds and/or termination of this Agreement. (Title 22 CCR 98370)
3. Compliance Monitoring
- a. Contractor shall develop and implement policies and procedures for assessing and monitoring the performance of individuals and entities that provide alternative communication services to non-English and LEP clients. (Title 22 CCR 98310)
 - b. Contractor shall monitor, evaluate, and take effective action to address any needed improvement in the delivery of culturally and linguistically appropriate services. (Title 22 CCR 98310)
 - c. Contractor shall permit timely access to all records of compliance with this section. Failure to provide access to such records may result in appropriate sanctions. (Title 22 CCR 98314)
4. Notice to Eligible Beneficiaries of Contracted Services
- a. Contractor shall designate an employee to whom initial complaints or inquiries regarding national origin can be directed. (Title 22 CCR 98325)

Scope of Work – Exhibit A
Title V – Fiscal Year 2009-10

ARTICLE II. SCOPE OF WORK (Continued)

- b. Contractor shall make available to ultimate beneficiaries of contracted services and programs information regarding the Department's procedure for filing a complaint and other information regarding the provisions of GC Section 11135 et seq. (Title 22 CCR 98326)
- c. Contractor shall notify the Department immediately of a complaint alleging discrimination based upon a violation of State or federal law. (Title 22 CCR 98211, 98310, 98340)

**Budget Detail, Payment Provisions, and Closeout - Exhibit B
Title V – Fiscal Year 2009-10**

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
Title V – Fiscal Year 2009-10

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 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 Senior Community Service Employment Program (Title V) Budget (CDA 35). 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

Budget Detail, Payment Provisions, and Closeout - Exhibit B
Title V – Fiscal Year 2009-10

ARTICLE I. FUNDS (Continued)

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

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. 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.

Budget Detail, Payment Provisions, and Closeout - Exhibit B
Title V – Fiscal Year 2009-10

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 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. A Title V Senior Community Service Employment Program (SCSEP) Application, Senior Community Service Employment Program (Title V) Budget (CDA 35), and Budget Narrative must be submitted, in accordance with the annual Application and Budget Instruction Package, as issued by the Department, before the start up of each fiscal year. The Budget and Budget Narrative must correlate with Title V SCSEP activities and functions, stipulated within the annual Title V SCSEP Application.
- B. The Contractor shall be compensated for expenses only as itemized in the approved Senior Community Service Employment Program (Title V) Budget (CDA 35) and shall not be entitled to payment for these expenses until the CDA 35 is reviewed and approved by the Department. The approved Senior Community Service Employment Program (Title V) Budget is hereby incorporated by reference into this Agreement as a part of Exhibit B.

Budget Detail, Payment Provisions, and Closeout - Exhibit B
Title V – Fiscal Year 2009-10

ARTICLE II. BUDGET AND BUDGET REVISIONS (Continued)

- C. The Contractor is limited to eight percent (8%) of the federal allocation for AAA Administration.
- D. Administrative costs for a Subcontractor are not limited to 8% of the federal allocation and should be reported as project administration in the Title V budget.
- E. The Contractor shall spend not less than 79% of the total federal allocation for Participant Wages and Fringe Benefits.
- F. The Contractor is not required to budget On-the-Job Experience (OJE) training costs separate from other costs; costs shall be tracked during the contract period in the Contractor's records.
- G. The Contractor may charge expenditures associated with participant assessment, training, job development, counseling functions, etc. to the Program Other category in the Title V Budget.
- H. Any matching contributions generated as a result of this contract should be reported on the CDA 35 as Matching Contributions.
- I. 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 of each fiscal year. The Department will not accept any budget revision after the contract period has expired.

ARTICLE III. PAYMENT

- A. The Contractor shall prepare and submit by the 15th of each month to the AAA-Based Team, in electronic format, a Monthly Expenditure Report/Request for Funds (CDA 29), unless otherwise specified by the Department.
- B. During the contract period, the Department shall advance funds based on an analysis of current cash needs. The Department shall pay the Contractor a total not to exceed the amount shown on the Budget Display, which is hereby incorporated by reference.
- C. 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
 - 4. Budgetary Control

**Budget Detail, Payment Provisions, and Closeout - Exhibit B
Title V – Fiscal Year 2009-10**

ARTICLE III. PAYMENT (Continued)

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

ARTICLE IV. CLOSEOUT

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

APR 03 2009

State of California
 California Department of Aging
 CDA 276 (Rev 01/06)
Exhibit B - Budget Detail, Payment Provisions and Closeout

Award#: TV-0910-30
 Date: 7/1/2009
 Amendment #: Original Contract
 Date: 4/1/2009

**SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM
 Budget Display
 Fiscal Year 2009/10**

Stanislaus County, Department of Aging and Veteran Services

| | TOTAL | NET CHANGE |
|--|----------------|------------|
| FEDERAL FUND PROGRAMS: | | |
| Federal Title V * | 115,797 | - |
| 502 (e) Funds | - | |
| Subtotal | 115,797 | - |
| * Maximum of 8% allowed for Administration * Minimum of 79% for participant wages and fringe benefits | | |
| TOTAL FEDERAL TITLE V | 115,797 | - |
| STATE FUNDS: | | |
| State Funds ** | - | - |
| Subtotal | - | - |
| ** Participant Wages Only | | |
| TOTAL STATE FUNDS | - | - |
| Grand Total - All Funds | 115,797 | - |

of Participant Slots 14 -

Special Terms and Conditions - Exhibit D
Title V – Fiscal Year 2009-10

ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS

- A. 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.
- B. In the event of any inconsistency between the articles, attachments, or provisions which constitute this contract, the following order of precedence shall apply:
1. Contract form, Standard Agreement, etc., and any amendments thereto;
 2. Scope of work;
 3. Special terms and conditions including Exhibit D;
 4. General terms and conditions, including Exhibit C; and
 5. All other attachments incorporated herein by reference.
- C. The Contractor shall comply with program memos and other guidance issued prior to and during the term of this Agreement by the Department. In the event of conflict between the program memos and/or other Department guidance and the provisions in this Agreement, the provisions in this Agreement shall prevail.
- D. "State" and "Department," mean the State of California and the California Department of Aging (CDA) interchangeably.
- E. "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.
- F. "Subcontractor" means the legal entity that receives funds from the Contractor under this Agreement.
- G. "Reimbursable item" also means "allowable cost" and "compensable item."
- H. "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.
- I. "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 the service.

Special Terms and Conditions - Exhibit D
Title V – Fiscal Year 2009-10

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

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.
4. Proceeds from the sale of items fabricated under a contract agreement.

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 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

Special Terms and Conditions - Exhibit D
Title V – Fiscal Year 2009-10

ARTICLE II. ASSURANCES (Continued)

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, 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.

Special Terms and Conditions - Exhibit D
Title V – Fiscal Year 2009-10

ARTICLE II. ASSURANCES (Continued)

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).
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

Special Terms and Conditions - Exhibit D
Title V – Fiscal Year 2009-10

ARTICLE II. ASSURANCES (Continued)

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 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.

Special Terms and Conditions - Exhibit D
Title V – Fiscal Year 2009-10

ARTICLE II. ASSURANCES (Continued)

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:

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.

Special Terms and Conditions - Exhibit D
Title V – Fiscal Year 2009-10

ARTICLE II. ASSURANCES (Continued)

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.

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

Special Terms and Conditions - Exhibit D
Title V – Fiscal Year 2009-10

ARTICLE V. SUBCONTRACTS (Continued)

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.
- 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.

Special Terms and Conditions - Exhibit D
Title V – Fiscal Year 2009-10

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 destroyed by shredding and disposed of in a manner that will maintain confidentiality.

Special Terms and Conditions - Exhibit D
Title V – Fiscal Year 2009-10

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.).
- 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;

Special Terms and Conditions - Exhibit D
Title V – Fiscal Year 2009-10

ARTICLE VII. PROPERTY (Continued)

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 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.

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ARTICLE VII. PROPERTY (Continued)

- 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.

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.

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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 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 Federal Awards during the subcontractor's fiscal year has met the audit requirements of OMB Circular A-133 as summarized in D;

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ARTICLE X AUDITS (Continued)

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.
 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.

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Title V – Fiscal Year 2009-10

ARTICLE X AUDITS (Continued)

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.
- 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:

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Title V – Fiscal Year 2009-10

ARTICLE XI INSURANCE (Continued)

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, 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

Special Terms and Conditions - Exhibit D
Title V – Fiscal Year 2009-10

ARTICLE XI. INSURANCE (Continued)

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 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 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.

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ARTICLE XII. TERMINATION (Continued)

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.
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

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ARTICLE XII. TERMINATION (Continued)

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 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

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ARTICLE XII. TERMINATION (Continued)

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.
- 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.

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ARTICLE XVI. NOTICES (Continued)

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

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ARTICLE XVIII. -INFORMATION INTEGRITY AND SECURITY (Continued)

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 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

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ARTICLE XVIII. -INFORMATION INTEGRITY AND SECURITY (Continued)

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.

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.

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ARTICLE XVIII. -INFORMATION INTEGRITY AND SECURITY (Continued)

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

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ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA (Continued)

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
Title V – Fiscal Year 2009-10**

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

- A. The Contractor shall assure the following:
1. Services are provided only to the defined Eligible Service Population.
 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 shall be provided skill enhancement opportunities, personal and employment-related counseling, assistance in transition to unsubsidized employment, and other benefits. (20 CFR 641.535)
- B. 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)].
- C. 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)].
- D. 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)].
- E. 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)
- F. 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).

Additional Provisions – Exhibit E
Title V – Fiscal Year 2009-10

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

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).

- G. 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;
 - 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.
- H. 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.

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ARTICLE II. REPORTING PROVISIONS (Continued)

3. 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. 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 fifteen (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 fifteen (15) working days after receipt of the Contractor's written complaint, make

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ARTICLE III. APPEAL PROCESS (Continued)

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 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. SCSEP 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.

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ARTICLE IV. SCSEP TRANSITION PLAN (Continued)

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.