

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

DEPT: ^{imp} Aging & Veterans Services

BOARD AGENDA # *B-2

Urgent

Routine

AGENDA DATE October 27, 2009

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval of Medicare Improvements for Patients and Providers Act (MIPPA) contract MI-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) to sign the Medicare Improvements for Patients and Providers Act (MIPPA) contract with the California Department of Aging for Fiscal Years 2009-2010 and 2010-2011.

FISCAL IMPACT:

The total MIPPA grant for Fiscal Years 2009-2010 and 2010-2011 allocated to the Area Agency on Aging is \$17,464. This funding will be used by HICAP (Health Insurance Advocacy Counseling Program) to assist in expanding Medicare beneficiaries' enrollment into the Prescription Drug Benefit Low-Income Subsidy (LIS), the Medicare Savings Program (MSP), and in general rural outreach and enrollment efforts for the Medicare Part D Prescription Drug Program.

BOARD ACTION AS FOLLOWS:

No. 2009-715

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

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

As part of the Medicare Improvements for Patients and Providers Act (MIPPA), the Administration on Aging (AOA) and the Centers for Medicare and Medicaid Services (CMS) provided additional funding to local Health Insurance Counseling and Advocacy Programs (HICAP) and Area Agencies on Aging (AAA) to assist Medicare beneficiaries to take advantage of all of the available programs. This additional contract requires that the local HICAP program and the AAA design ways to inform the public of the opportunities to improve their health insurance coverage, especially focusing on the Prescription Drug benefit.

In addition to the Medicare Part D Prescription Drug benefit, HICAP staff and volunteers will focus outreach efforts on communicating information about the Limited Income Subsidy (LIS) program, which is available to persons on Medicare to be used to pay the premiums and co-pays for the Part D Prescription Drug Plans. All of the outreach efforts are attempts to reach more Medicare beneficiaries with information about specific benefits and ways to save money, and special outreach efforts will be made in the rural parts of the County.

Funding to meet the goals of the MIPPA contract may be spent on outreach materials, advertisements in the media, and administrative costs associated with presentations to groups and higher caseloads. Funding may also be spent on staff time to assist Medicare beneficiaries understand the choices for the Prescription Drug Plans, and to apply for the Limited Income Subsidy. This subsidy is for seniors who do not qualify for MediCal, but whose income is equal to, or less than, \$1,354 per month for a single person, or \$1,821 per month for a couple. During the fourth quarter (April - June) of Fiscal Year 2008-2009, 204 Medicare beneficiaries were counseled about Part D Prescription Drug Plans. Of these, 23 qualified for the LIS program. HICAP staff and volunteers will continue to be available at community and agency events to provide information and applications for the LIS program.

POLICY ISSUES:

By approving the MIPPA contract with the California Department of Aging, the Area Agency on Aging will be able to provide information about all available programs to Medicare beneficiaries in the 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 AAA and HICAP staff will administer the contracts.

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

Date: October 27, 2009

No. 2009-715

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

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

THE FOLLOWING RESOLUTION WAS ADOPTED:

Item # *B-2

**RESOLUTION APPROVING THE MEDICARE IMPROVEMENTS FOR PATIENTS
AND PROVIDERS ACT (MIPPA) CONTRACT WITH THE DEPARTMENT OF AGING**

WHEREAS, Stanislaus County's low-income senior citizens may need financial help in paying Medicare Part D Prescription Drug Program premiums; and

WHEREAS, the Administration on Aging (AOA) and the Centers for Medicare and Medicaid Services (CMS) have provided additional funding from the Medicare Improvements for Patients and Providers Act (MIPPA) to local Health Insurance Counseling Advocacy Programs (HICAP) and Area Agencies on Aging (AAA) to inform Medicare beneficiaries of programs which may help pay the premiums for their health insurance coverage, specifically information about the Limited Income Subsidy (LIS) program.

NOW, THEREFORE, BE IT RESOLVED that the Stanislaus County Board of Supervisors does hereby authorize acceptance of the Medicare Improvements for Patients and Providers Act (MIPPA) contract MI-0910-30 with the California Department of Aging for Fiscal Years 2009-2010 and 2010-2011, and authorize the Director of the Department of Aging and Veterans Services (Area Agency on Aging) to sign it.

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



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

AGREEMENT NUMBER MI-0910-30
REGISTRATION NUMBER

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

STATE AGENCY'S NAME
 California Department of Aging

CONTRACTOR'S NAME
STANISLAUS COUNTY, DEPARTMENT OF AGING AND VETERAN SERVICES

2. The term of this Agreement is: August 1, 2009 (or, if applicable, when approved by DGS, Office of Legal Services, whichever is later.)
 May 31, 2011



3. The maximum amount of this Agreement is: **\$ 17,464.00**
 Seventeen thousand four hundred sixty-four and 00/100

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

Exhibit A – Scope of Work	8 page(s)
Exhibit B – Budget Detail and Payment Provisions	9 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	

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		<i>California Department of General Services Use Only</i>
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 And AG OP No. 80-111.
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		

Scope of Work – Exhibit A
MIPPA

ARTICLE I. DEFINITIONS

- A. **Contractor** means the Area Agency on Aging (AAA) and are used interchangeably.
- B. **Eligible Service Population** means individuals defined as Medicare eligible beneficiaries likely to be qualified for the Medicare Part D Low-Income Subsidy (LIS), Medicare Savings Program (MSP), and the Medicare Part D Prescription Drug Program, including individuals in rural areas.
- C. **Enhanced Outreach** means outreach activities above and beyond routine activities planned in response to other funding (e.g., Basic State Health Insurance Assistance Program (SHIP) Funds, SHIP Supplemental LIS Funds, or Older Americans Act (OAA) Outreach Funds). These activities should also give consideration to Medicare eligibility changes that go into effect January 1, 2010, equating the MSP asset limit to that of the full Medicare Part D LIS asset limit, thereby increasing the number of Medicare low income assistance eligible beneficiaries.
- D. **Enrollment Assistance** means assistance to beneficiaries in completing and submitting LIS and MSP applications. Enhanced outreach alone does not meet the requirement for enrollment assistance.
- E. **Enrollment Assistance Centers** means locations equipped and designated for Medicare Part D, LIS and MSP enhanced outreach and enrollment assistance that have been publicly advertised and identified for these purposes.
- F. **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.
- G. **Low Income Subsidy (LIS)** means financial assistance with Part D premiums and cost sharing for certain low-income Medicare beneficiaries referred to as the low-income subsidy.
- H. **Medicare Improvements for Patients and Providers Act (MIPPA) of 2008** means legislation which amended Titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program; to improve beneficiary access to preventive and mental health services; to enhance low-income benefit programs; and to maintain access to care in rural areas, including pharmacy access.
- I. **Medicare Prescription Drug Improvement and Modernization Act of 2003** (also known as the "Medicare Modernization Act" or "MMA") means legislation that imposed the most sweeping changes to the Medicare program since its inception, including the addition of a prescription drug benefit through a new Medicare "Part D."

ARTICLE I. DEFINITIONS (Continued)

- J. **Medicare Savings Program (MSP)** - As of January 1, 2010, low-income Medicare beneficiaries who do not qualify for Medi-Cal may be enrolled in one of three Medicare Savings Programs that will automatically provide these individuals with the Low Income Subsidy (LIS). The Medicare Savings Programs include the following: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Qualified Individuals (QI).
- K. **Program Income** means revenue generated by the Contractor or subcontractor from contract-supported activities. Program income is:
1. Voluntary contributions received from a participant or responsible party as a result of services.
 2. Income from usage or rental fees of real or personal property acquired with funds provided under this Agreement.
 3. Royalties received on patents and copyrights from contract-supported activities.
 4. Proceeds from sale of items fabricated under a contract agreement.
- L. **Rural** means all territory, population and housing units not classified as urban. Rural classification cuts across other hierarchies and can be in metropolitan or non-metropolitan areas.
- M. **State Health Insurance Assistance Program (SHIP)** means a national program supported by the federal Centers for Medicare and Medicaid Services (CMS) that offers one-on-one counseling and assistance to people with Medicare and their families. Through federal grants directed to states, SHIPs provide free counseling and assistance via telephone and face-to-face interactive sessions, public education presentations and programs, and media activities. In California SHIP is the same program as the Health Insurance Counseling and Advocacy Program (HICAP).
- N. **Urban** means all territory, population and housing units in urban areas, which include urbanized areas and urban clusters. An urban area generally consists of a large central place and adjacent densely settled census blocks that together have a total population of at least 2,500 for urban clusters, or at least 50,000 for urbanized areas. Urban classification cuts across other hierarchies and can be in metropolitan or non-metropolitan areas.

ARTICLE II. SCOPE OF WORK

- A. General Provisions

ARTICLE II. SCOPE OF WORK (Continued)

1. The Scope of Work shall be performed by the Area Agency on Aging (AAA) and their subcontractors which shall include, but not be limited to, the Health Insurance Counseling Advocacy Program (HICAP), the Aging and Disability Resource Center (ADRC), where applicable.
2. All MIPPA contract and subcontract activities must be over and above those related activities provided through other funding sources (e.g., OAA funding and the basic federal HICAP funds) and must meet performance benchmarks as specified by CDA.

B. Provisions for the Contractor.

The Contractor shall:

1. Provide enhanced outreach and enrollment assistance to eligible Medicare beneficiaries regarding their benefits; and more intensive outreach and enrollment assistance to (1) individuals in rural areas on Medicare Part D, and (2) individuals in all areas who may be eligible for the LIS or MSP.
2. Assume the lead responsibility in developing (and updating) the local MIPPA Project Plan that delineates how the AAAs, HICAPs, and ADRCs (where applicable) will coordinate their efforts and resources to achieve the performance objective of a 20 percent increase in LIS and MSP applications.
3. Provide enhanced outreach activities independently of, but in coordination with the affiliated HICAP (where applicable), ADRC (where applicable), other aging network programs (such as, but not limited to, Information and Assistance, Home-Delivered Meals, Brown Bag) and assist Medicare beneficiaries in applying for the LIS and MSP programs and Medicare Part D, with a high priority to rural areas.
4. Collaborate with the local HICAP serving the Planning and Service Area (PSA) and the ADRC (where applicable) to reach the required performance goals (see Exhibit A, Article V, Performance Benchmarks Document).
5. Work with local aging network resources (e.g., including but not limited to home-delivered meal providers, nutrition centers and Information and Assistance) and community partners (including but not limited to general health and mental health clinics, county Medi-Cal offices and local Social Security Administration offices), making every effort to provide enhanced outreach to eligible Medicare beneficiaries regarding their benefits and

Scope of Work – Exhibit A

MIPPA

ARTICLE II. SCOPE OF WORK (Continued)

enhanced outreach to individuals who may be eligible for the LIS and/or for the MSP.

6. Prepare and submit the AAA MIPPA related budget(s) to CDA. In addition, review, approve, and monitor all MIPPA related budgets, expenditures and revisions of subcontractors, including but not limited to HICAP (where applicable) and ADRC (where applicable). AAAs shall ensure that all budgeted funds are expended by the end of the contract period.
7. Monitor, on an ongoing basis, all use of MIPPA funds through reporting, site visits, regular contact, or other means to provide reasonable assurance that the MIPPA funds are administered in compliance with laws, regulations, and the provisions of contracts and that performance goals are achieved [OMB Circular A-133.400(d)(3)].
8. 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.
9. Distribute and maintain up-to-date CDA requirements so that all responsible persons have ready access to standards, policies, and procedures.
10. Submit a narrative report to CDA by March 1, 2010, that specifies how the contract funds were used, progress to date in achieving MIPPA Project Plan objectives; barriers encountered and steps taken to overcome these issues.

C. Provisions for the HICAP Program, where applicable.

The Contractor shall require the HICAP Program to:

1. Provide enhanced outreach and enrollment assistance to eligible Medicare beneficiaries regarding their benefits; and more intensive outreach and enrollment assistance to (1) individuals in rural areas on Medicare Part D, and (2) individuals in all areas who may be eligible for the LIS or MSP.
2. Conduct enhanced outreach activities in coordination with the AAA and ADRC (where applicable), to assist Medicare beneficiaries in applying for the LIS and MSP programs and Medicare Part D, with a high priority to rural areas.
3. Work collaboratively with the affiliated AAA(s) or ADRC (where applicable) to reach the required performance goals.

ARTICLE II. SCOPE OF WORK (Continued)

D. Provisions for the ADRC Program, where applicable.

The Contractor shall require the ADRC to:

1. Conduct enhanced outreach activities in coordination with the AAA and HICAP (where applicable), to assist Medicare beneficiaries in applying for the LIS and MSP programs and Medicare Part D, with a high priority to rural areas where applicable.
2. Provide increased outreach and enrollment assistance to beneficiaries on Medicare Part D and the MSP.
3. Work collaboratively with any affiliated HICAP or AAA to reach the required performance goals in the Performance Benchmarks Document.
4. Establish additional enrollment assistance centers to facilitate streamlined application for these benefits.
5. Participate on the MIPPA Statewide Steering Committee.
6. Test on-line and other tools being developed by the National Resource Center and provide feedback to the Steering Committee on the applicability of these products.

E. Other Provisions and Assumptions

1. Before payments can be made to the AAA, the AAA will be required to submit to CDA an updated MIPPA Project Plan, which clearly distinguishes the activities that will be performed by the each of the MIPPA entities, AAA, HICAP, and ADRC. This updated plan shall also identify how the AAA will coordinate with their local HICAP to meet the data reporting requirements as specified by CDA and to evaluate progress in meeting the contract performance benchmarks identified in Exhibit A, Article V (Performance Benchmarks Document). Further updates to the MIPPA Project Plan would only be required if substantial changes were proposed by the Contractor.
2. The Contractor shall assure:
 - a. Services are provided to the Eligible Service Population as defined in Exhibit A, Article I, Section A.
 - b. As applicable, compliance with standards and guidelines for procurement of supplies, equipment, construction, and services as provided in 45 CFR, Part 74 and 45 CFR, Part 92, "Procurement Standards."

Scope of Work – Exhibit A

MIPPA

ARTICLE II. SCOPE OF WORK (Continued)

- c. Compliance with all standards and regulations identified in Exhibit A, Article I, Section H.

F. Performance Benchmark

The CDA has established benchmarks based on LIS/MSP data from SFY 2007-2008 for each AAA, HICAP and ADRC. These are contained in Exhibit A, Article V.

1. The Contractor shall attain the established AAA benchmark.
2. The HICAP shall attain the established benchmark over and above their current LIS/MSP benchmarks, as established by Quarterly Aggregate data reporting for SFY 2007-2008.
3. The ADRC shall attain the established benchmark independent of any AAA or HICAP program with which they may be affiliated.

G. Data Reporting and Collection

1. The Contractor is required to collect and report data as required to CDA for the AAA, HICAP, and ADRC.
2. The Contractor shall assure that all performance data reports submitted are timely, complete, accurate and verifiable, using CDA approved reporting procedures and timelines.
3. MIPPA Data Reports will include aggregate data from each reporting entities (i.e., AAA, HICAP, ADRC) that directly assisted Medicare beneficiaries in submitting an application for Medicare Part D, the LIS or the MSP benefit.
4. MIPPA Data Reports will be submitted via e-mail to CDA at datateam.reports@aging.ca.gov and are required on a monthly basis at the end of the month of the proceeding month during the term of the contract in order to meet CMS and AoA reporting requirements. The reporting timetable will be posted to the CDA website.
5. CDA reserves the right to modify performance reporting terms and conditions to assure compliance with Federal government guidelines and requirements.
6. Performance will meet measurable performance goals. Performance data that must be submitted includes, but is not limited to:

Scope of Work – Exhibit A

MIPPA

ARTICLE II. SCOPE OF WORK (Continued)

- a. Number of consumers assisted in submitting an LIS and MSP application.
 - b. Number and type of enhanced outreach events conducted during the project period.
 - c. Number of LIS/MSP enrollment assistance events conducted during the project period.
 - d. Number of training and technical assistance sessions held for ADRC, AAA and HICAP programs on enhanced outreach, screening, enrollment assistance and follow-up strategies, including locations where the sessions were held.
 - e. Number of ADRC, AAA, HICAP programs agreeing to serve as enrollment assistance center.
7. AAAs, ADRCs and HICAPs may have the option of sub-contracting enhanced outreach activities to other community based organizations as necessary.
 8. The Contractor will assure the protection of confidentiality of all project-related information that identifies individuals.

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 MIPPA funds using the appeal process established in Title 22 CCR, Sections 7700 through 7710.
- C. Appeal costs or costs associated with any court review are not reimbursable.

ARTICLE IV. MIPPA SPECIFIC TERMS AND CONDITIONS

- A. This Agreement is issued under the authority of the MIPPA Act of 2008, Section 119, PL 110-275. By receiving funds under this Agreement, the Contractor assures that it will carry out the project/program as authorized and will comply with the terms and conditions and other requirements of this Agreement.
- B. This Agreement is subject to the requirement of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104).

MIPPA Contract Terms and Conditions – Exhibit A

ARTICLE V. PERFORMANCE BENCHMARKS

PERFORMANCE BENCHMARKS BY PSA - HICAP – ADRC (20%)

With SSA “leads” data provided by 1-31-10.

CA MIPPA Funding Allocations to AAAs, HICAPs, and ADRCs						
PSAs	AAAs (33)		HICAPs (26)		ADRCs (4)	
	Contract \$	Benchmark	Contract \$	Benchmark	Contract \$	Benchmark
1	3,578	18	7,479	37	77,994	390
2	8,229	41	8,599	43		
3	8,784	44	8,871	44	77,993	390
4	38,589	193	21,439	107		
5	5,023	25	0	0		
6	19,474	97	11,040	55	77,993	390
7	18,125	91	11,495	57		
8	13,633	68	10,101	51		
9	27,472	137	12,969	65		
10	30,778	154	13,844	69		
11	11,785	59	0	0		
12	6,462	32	7,750	39		
13	5,117	26	7,822	39		
14	19,115	96	11,023	55		
15	9,512	48	8,743	44		
16	960	5	0	0		
17	13,188	66	10,328	52		
18	13,201	66	10,242	51		
19	114,153	571	31,912	160		
20	30,431	152	13,954	70		
21	32,620	163	16,135	81		
22	47,577	238	19,517	98		
23	49,121	246	21,289	106	77,993	390
24	3,914	20	0	0		
25	75,723	379	22,656	113		
26	4,826	24	0	0		
27	9,012	45	14,409	72		
28	10,078	50	0	0		
29	4,117	21	0	0		
30	8,421	42	8,852	44		
31	4,159	21	7,455	37		
32	7,460	37	8,223	41		
33	12,380	62	9,781	49		
TOTAL	667,017	3,335	335,928	1,680	311,973	1,560
6,575 Total new applications					16,200	State Operations/ Contract Management
Performance benchmark equals total contract \$ divided by \$200/LIS-MSP application benchmark set by CMS					328,173	Total ADRC Funds

Budget Detail, Payment Provisions, and Closeout – Exhibit B
MIPPA

ARTICLE I. FUNDS

A. Expenditure of Funds

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

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

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

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

B. Accountability for Funds

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

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. Federal funds will be made available in two increments. The Federal Government disburses 50 percent of the total allocation for this project for expenditures for Fiscal Year 2009-10. The second half of funding is contingent upon CMS and AoA approval of performance data submitted for the initial first phase report, due to CDA March 1, 2010, with any modifications to the initial MIPPA Project Plan. If awarded, these funds will be disbursed for Fiscal Year 2010-11.
2. 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.
3. 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.

4. 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 MIPPA Budget (CDA 229m). 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.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
MIPPA**

ARTICLE I. FUNDS (Continued)

5. Funding Reduction(s)

- a. If funding for any State fiscal year is reduced or deleted by the State or federal government, 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 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 MIPPA program:
 - a. Nonprofits shall maintain advances of federal funds in interest bearing accounts, unless (1), (2), or (3) apply.
 - (1) The recipient receives less than \$120,000 in federal awards per year.
 - (2) The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on federal cash balances.
 - (3) The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
MIPPA**

ARTICLE I. FUNDS (Continued)

- 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.
- 2. Program Income must be used to pay for current allowable costs of the program.
- 3. Program Income must be used to expand services

H. MIPPA Administration

MIPPA Administration shall be no more than 8 % of the total MIPPA allocation.

ARTICLE II. BUDGET AND BUDGET REVISION

- A. The Contractor shall be compensated for expenses only as itemized in the approved MIPPA Budget (CDA 229m) and shall not be entitled to payment for these expenses until the MIPPA Budget (CDA 229m) is reviewed and approved by the Department. The approved MIPPA Budget is hereby incorporated by reference into this Agreement as a part of Exhibit B.
- B. The Contractor shall submit electronically the original CDA 229m no later than 30 days after receiving this contract.
- C. The CDA 229m 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. Salary 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.
 - 5. Any travel outside the State of California.
 - 6. A detailed list of other operating expenses.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
MIPPA**

ARTICLE II. BUDGET AND BUDGET REVISION (Continued)

- D. The Contractor shall ensure that subcontractors submit a budget, which shall be incorporated by reference into the subcontract and will have, at a minimum, the categories listed in Section C, above.
- E. The Contractor may make changes in budget allocations, subject to the following conditions:
 - 1. The Contractor may transfer contract funds from each line item in accordance with OMB, 45CFR subpart 92, section .30 (common rules).
 - 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. An amendment to this Agreement shall be required in accordance with Exhibit D, Article XV.
- E. The Contractor shall submit electronically a budget revision 30 days after receiving an amended MIPPA Budget Display with changes in funding levels, unless otherwise instructed by the Department.
- F. The final date to submit a budget revision is April 30, 2011, unless otherwise specified by CDA.
- 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.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B
MIPPA**

ARTICLE III. PAYMENTS

A. The Contractor shall prepare and submit electronically by the 30th of each month to the AAA-Based Team the MIPPA Monthly Report of Expenditures/Requests for Funds (CDA 245m) unless otherwise specified by the Department.

B. Advance Payments

1. The Contractor may request one advance payment within the first quarter of each fiscal year, which shall not exceed twenty-five percent (25%) of the amount awarded for the fiscal year, for each funding source under the terms of this Agreement, unless otherwise specified by the Department. To receive an advance payment, the Contractor shall submit electronically an Annual Advance - Request for Funds (CDA 245m).

2. One-sixth of the advanced payment shall be deducted each month from reimbursement 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 for that fiscal year. If the Contractor receives an advance payment in the second fiscal year, the Contractor shall advance to the subcontractor, one advance payment of up to twenty-five percent (25%) of the subcontract amount for the second fiscal year.

C. Monthly Reimbursement Payments

1. The Contractor shall submit a CDA 245m 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.

3. 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.

4. 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
MIPPA**

ARTICLE III. PAYMENTS (Continued)

D. Financial Management Systems

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

1. Financial Reporting
2. Accounting Records
3. Internal Control
4. Budgetary Control
5. Allowable Costs
6. Source Documentation
7. Cash Management

ARTICLE IV. CLOSEOUT

- A. The MIPPA Financial Closeout Report (CDA 230m) shall be submitted to the AAA-Based Team, within 30 calendar days following the end of the contract period, or within 30 days following termination prior to the end of the contract period, unless otherwise specified by CDA.

Budget Detail, Payment Provisions, and Closeout - Exhibit B
Budget Display
Fiscal Years 2009/10 & 2010/11
Stanislaus County, Department of Aging and Veteran Services

2009-2010	Baseline	Remaining Funds	Total	Net Change
AAA MIPPA				
AOA & CMS	4,273		4,273	
Total AAA MIPPA	4,273	-	4,273	-
HICAP MIPPA				
CMS	4,459		4,459	
Total HICAP MIPPA	4,459	-	4,459	-
ADRC MIPPA				
AOA & CMS	-		-	
Total ADRC MIPPA	-	-	-	-
Grand Total - All Funds 2009-10	8,732	-	8,732	-
Funding Summary				
Federal Funds	8,732	-	8,732	-
	8,732	-	8,732	-
2010-2011				
	Baseline	Remaining Funds	Total	Net Change
AAA MIPPA				
AOA & CMS	4,273		4,273	
Total AAA MIPPA	4,273	-	4,273	-
HICAP MIPPA				
CMS	4,459		4,459	
Total HICAP MIPPA	4,459	-	4,459	-
ADRC MIPPA				
AOA & CMS	-		-	
Total ADRC MIPPA	-	-	-	-
Grand Total - All Funds 2010-11	8,732	-	8,732	-
Funding Summary				
Federal Funds	8,732	-	8,732	-
	8,732	-	8,732	-

TOTAL MIPPA GRANT ALLOCATION	Baseline	Remaining Funds	Total	Net Change
AAA MIPPA				
AOA & CMS	8,546		8,546	
Total AAA MIPPA	8,546	-	8,546	-
HICAP MIPPA				
CMS	8,918		8,918	
Total HICAP MIPPA	8,918	-	8,918	-
ADRC MIPPA				
AOA & CMS	-		-	
Total ADRC MIPPA	-	-	-	-
Grand Total - All Funds	17,464	-	17,464	-
Funding Summary				
Federal Funds	17,464	-	17,464	-
	17,464	-	17,464	-

State of California California Department of Aging CDA 001 (Rev. 11/05)	Award #: MP-0910-30 Date: 7/1/2009 Amendment #: 0 Date: 7/29/2009																
Budget Detail, Payment Provisions, and Closeout - Exhibit B Budget Display Fiscal Years 2009/10 & 2010/11 Stanislaus County, Department of Aging and Veteran Services																	
2009-2010	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 15%; text-align: center;">Remaining Funds</th> <th style="width: 15%; text-align: center;">Total</th> <th style="width: 10%; text-align: center;">Net Change</th> </tr> </thead> </table>		Remaining Funds	Total	Net Change												
	Remaining Funds	Total	Net Change														
Comments: <table border="0" style="width: 100%;"> <tr> <td colspan="2">2009-2010</td> </tr> <tr> <td style="padding-left: 20px;">The maximum amount of AAA MIPPA allowable for administration is:</td> <td style="text-align: right; padding-right: 20px;">\$342</td> </tr> <tr> <td style="padding-left: 20px;">The maximum amount of HICAP MIPPA allowable for administration is</td> <td style="text-align: right; padding-right: 20px;">\$357</td> </tr> <tr> <td style="padding-left: 20px;">The maximum amount of ADRC MIPPA allowable for administration is:</td> <td style="text-align: right; padding-right: 20px;">\$0</td> </tr> <tr> <td colspan="2">2010-2011</td> </tr> <tr> <td style="padding-left: 20px;">The maximum amount of AAA MIPPA allowable for administration is:</td> <td style="text-align: right; padding-right: 20px;">\$342</td> </tr> <tr> <td style="padding-left: 20px;">The maximum amount of HICAP MIPPA allowable for administration is</td> <td style="text-align: right; padding-right: 20px;">\$357</td> </tr> <tr> <td style="padding-left: 20px;">The maximum amount of ADRC MIPPA allowable for administration is:</td> <td style="text-align: right; padding-right: 20px;">\$0</td> </tr> </table>		2009-2010		The maximum amount of AAA MIPPA allowable for administration is:	\$342	The maximum amount of HICAP MIPPA allowable for administration is	\$357	The maximum amount of ADRC MIPPA allowable for administration is:	\$0	2010-2011		The maximum amount of AAA MIPPA allowable for administration is:	\$342	The maximum amount of HICAP MIPPA allowable for administration is	\$357	The maximum amount of ADRC MIPPA allowable for administration is:	\$0
2009-2010																	
The maximum amount of AAA MIPPA allowable for administration is:	\$342																
The maximum amount of HICAP MIPPA allowable for administration is	\$357																
The maximum amount of ADRC MIPPA allowable for administration is:	\$0																
2010-2011																	
The maximum amount of AAA MIPPA allowable for administration is:	\$342																
The maximum amount of HICAP MIPPA allowable for administration is	\$357																
The maximum amount of ADRC MIPPA allowable for administration is:	\$0																
Page 9																	

Special Terms and Conditions - Exhibit D**MIPPA****ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS****A. Definitions**

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

B. Resolution of Language Conflicts

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

1. Standard Agreement (STD 213), all Exhibits and any amendments thereto.
2. All other contract policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements apply unless they conflict or are superseded by the terms and conditions of the Medicare Improvements for Patients and Providers Act of 2008, Section 119, PL 110-275. Contractor is responsible for contacting CDA for any needed clarifications.
4. Any other documents incorporated herein by reference.
5. Program memos and other guidance issued by the Department.

Special Terms and Conditions - Exhibit D
MIPPA

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
MIPPA**

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
MIPPA**

ARTICLE II. ASSURANCES (Continued)

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

H. Facility Construction or Repair

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

I. Contracts in Excess of \$100,000

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

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

Special Terms and Conditions - Exhibit D
MIPPA

ARTICLE II. ASSURANCES (Continued)

5. Public Contract Code Section 10295.3.

J. Debarment, Suspension, and Other Responsibility Matters

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

K. Agreement Authorization

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

**Special Terms and Conditions - Exhibit D
MIPPA**

ARTICLE II. ASSURANCES (Continued)

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.

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
MIPPA**

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
MIPPA

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 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.

Special Terms and Conditions - Exhibit D
MIPPA

ARTICLE V. SUBCONTRACTS AND/OR VENDOR AGREEMENTS (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 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 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

**Special Terms and Conditions - Exhibit D
MIPPA**

ARTICLE VI. RECORDS (Continued)

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.
- 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;

**Special Terms and Conditions - Exhibit D
MIPPA**

ARTICLE VII. PROPERTY (Continued)

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;
 6. Fund source; and
 7. Rate of depreciation (or depreciation schedule), if applicable.

Special Terms and Conditions - Exhibit D
MIPPA

ARTICLE VII. PROPERTY (Continued)

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:
 - 1. Another Department program providing the same or similar service; or
 - 2. Another Department-funded program.

**Special Terms and Conditions - Exhibit D
MIPPA**

ARTICLE VII. PROPERTY (Continued)

- 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.

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

**Special Terms and Conditions - Exhibit D
MIPPA**

ARTICLE X. AUDITS (Continued)

1300 National Drive, Suite 200
Sacramento, California 95834

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

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

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

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

93.071	Medicare Enrollment Assistance Program
93.779	LIS/MSP Outreach to Low Income Medicare Beneficiaries

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

Contract resolution includes:

1. Ensuring that a subcontractor expending \$500,000 or more in aggregate in Federal Awards during the subcontractor's fiscal year has met the audit requirements of OMB Circular A-133 as summarized in D;

Special Terms and Conditions - Exhibit D
MIPPA

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

Special Terms and Conditions - Exhibit D
MIPPA

ARTICLE X. AUDITS (Continued)

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

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:

**Special Terms and Conditions - Exhibit D
MIPPA**

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 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.

**Special Terms and Conditions - Exhibit D
MIPPA**

ARTICLE XI. INSURANCE (Continued)

3. The Department shall be named the certificate holder and the address must be listed on the certificate.

- D. The insurance provided herein shall be in effect at all times during the term of this Agreement. In the event the insurance coverage expires during the term of this Agreement, the Contractor agrees to provide the Department, at least thirty (30) days prior to the expiration date, a new certificate of insurance evidencing insurance coverage as provided herein for a period not less than the remaining agreement term or for a period not less than one (1) year. In the event the Contractor fails to keep in effect at all times said insurance coverage, the Department may, in addition to any other remedies it may have, terminate this Agreement.

- E. The Contractor shall require its subcontractors or vendors under this Agreement, other than units of local government which are similarly self-insured, to maintain adequate insurance coverage for general liability, worker's compensation liabilities, and if appropriate, auto liability including non-owned auto and professional liability, and further, the Contractor shall require its subcontractors and vendors to hold the Contractor harmless. The subcontractor's Certificate of Insurance shall also name the Contractor, not the State, as the certificate holder and additional insured. The Contractor shall maintain certificates of insurance for all its subcontractors.

- F. A copy of each appropriate Certificate of Insurance referencing this Agreement Number, or letter of self-insurance, shall be submitted to the Department with this Agreement.

- G. The Contractor shall be insured against liability for Worker's Compensation or undertake self-insurance in accordance with the provisions of the Labor Code and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement (Labor Code Section 3700).

ARTICLE XII. TERMINATION

A. Termination Without Cause

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

Special Terms and Conditions - Exhibit D
MIPPA

ARTICLE XII. TERMINATION (Continued)

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.
11. The Contractor's organizational structure has materially changed.

**Special Terms and Conditions - Exhibit D
MIPPA**

ARTICLE XII. TERMINATION (Continued)

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

C. Contractor's Obligation After Notice of Termination

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

The Contractor shall:

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

D. Effective Date

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

E. Notice of Intent to Terminate by Contractor

Contractor may give the Department 30 days written Notice of Intent to Terminate. In such instance, Contractor shall allow the Department up to 180 days to transition services. Unless mutually agreed upon, the Contractor does

**Special Terms and Conditions - Exhibit D
MIPPA**

ARTICLE XII. TERMINATION (Continued)

not have the authority to terminate the Agreement. The notice of intent to terminate shall include the reason for such action and the anticipated last day of work. Upon receipt of such notice, the Department will work with the Contractor to terminate the Agreement.

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

ARTICLE XIII. REMEDIES

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

ARTICLE XIV. DISSOLUTION OF ENTITY

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

ARTICLE XV. REVISIONS OR MODIFICATIONS

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

ARTICLE XVI. NOTICES

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

**Special Terms and Conditions - Exhibit D
MIPPA**

ARTICLE XVI. NOTICES (Continued)

National Drive, Suite 200, Sacramento, California 95834. Notices mailed to the Contractor shall be to the address indicated on the coversheet of this Agreement.

- D. Either party may change its address by written notice to the other party in accordance with this Article.

ARTICLE XVII. DEPARTMENT CONTACT

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

ARTICLE XVIII. INFORMATION INTEGRITY AND SECURITY

- A. Information Assets

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

Information assets include (but are not limited to):

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

- B. Encryption on Portable Computing Devices

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

Special Terms and Conditions - Exhibit D
MIPPA

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

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.

**Special Terms and Conditions - Exhibit D
MIPPA**

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. 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.

B. Rights in Data

**Special Terms and Conditions - Exhibit D
MIPPA**

ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA (Continued)

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 the Contractor shall state: "This publication has been created or produced by a project funded by a contract with the California Department of Aging with financial assistance, in whole or in part, through a grant from the administration on Aging and the Centers for Medicare & Medicaid Services. Contractors undertaking projects under government sponsorship are encouraged to express their findings and conclusions. These contents do not necessarily represent the policy of the U.S. Department of Health and Human Services or the Department of Aging and the contractor should not assume endorsement by the Federal or State Government."