

**AGREEMENT #13-27-629288**  
**FOR THE PROVISION OF**  
**HEALTH INSURANCE COUNSELING & ADVOCACY PROGRAM SERVICES**  
**FUNDED BY A CENTERS FOR MEDICARE & MEDICAID SERVICES FINANCIAL**  
**ALIGNMENT GRANT**  
**CFDA #93.626 :SHIP OPTIONS COUNSELING FOR MEDICARE/MEDICAID**

**BETWEEN**

**COUNTY OF ORANGE**

**AND**

**COUNCIL ON AGING – ORANGE COUNTY**



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- A. Work Plan
- B. Budget
- C. State Standard Agreement FA-1316-22 Terms and Conditions
- D. OC Community Resources Contract Reimbursement Policy

**ATTACHMENTS**

- 1. County of Orange Child Support Enforcement Certification
- 2. EDD Independent Contractor Reporting Requirements

## **AGREEMENT**

FOR THE PROVISION OF HEALTH INSURANCE COUNSELING & ADVOCACY PROGRAM  
SERVICES  
FUNDED BY A CENTERS FOR MEDICARE & MEDICAID SERVICES FINANCIAL ALIGNMENT  
GRANT  
CFDA #93.626: SHIP OPTIONS COUNSELING FOR MEDICARE/MEDICAID

This Agreement, hereinafter referred to as “Contract” is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California; hereinafter referred to as “County,” and Council on Aging – Orange County, a non-profit Corporation, with a place of business at 1971 E. 4<sup>th</sup> Street, Suite 200, Santa Ana, CA 92705; hereinafter referred to as “Contractor,” with County and Contractor sometimes referred to as “Party,” or collectively as “Parties,” for the provision of Health Insurance Counseling & Advocacy Program services, funded with federal funds through the following Centers for Medicare & Medicaid Services Financial Alignment grant: CFDA #93.626: SHIP Options Counseling for Medicare/Medicaid; and is effective as of March 4, 2014, hereinafter referred to as “Effective Date.”

### **RECITALS**

**WHEREAS**, Contractor responded to a Request for Proposal (“RFP”) for Health Insurance Counseling & Advocacy Program Services to older adults in Orange County; and

**WHEREAS**, the Contractor responded and represented that its proposed services shall meet or exceed the requirements and specifications of the RFP; and

**WHEREAS**, the County Board of Supervisors has authorized the OC Community Resources Director or his designee to enter into a Contract for Health Insurance Counseling & Advocacy Program services with the Contractor;

**NOW, THEREFORE**, the Parties mutually agree as follows:

### **ARTICLES**

#### **Terms and Conditions:**

#### **A. Definitions**

1. “Administrator” means the Executive Director, Orange County Office on Aging (OoA), the designated Area Agency on Aging for Orange County, or designee thereof.
2. “Information & Assistance [I&A]” means the function of the Office on Aging that refers older adults to appropriate service and assistance agencies in Orange County.
3. “Subcontractor” means any entity that furnishes to Contractor services or supplies relative to this Contract.
4. Additional definitions pertaining to the provision of Health Insurance Counseling & Advocacy Program services under the Cal MediConnect demonstration are contained in the California Department of Aging (CDA) State Standard Agreement FA-1316-22 Terms and Conditions attached hereto as Exhibit C.

**B. Term of Contract:** The term of the Contract shall begin March 4, 2014 and end June 30, 2014 unless terminated or extended as provided for in this Contract; provided, however, the

expiration of the term shall not affect any duties of Contractor which would extend beyond the term of this Contract. This Contract may be renewed on the same terms, conditions, and scope of services by mutual written agreement by the County and Contractor.

### **C. Compensation/Payments**

1. Maximum obligation of County. County will pay Contractor for the cost of the services provided up to a maximum obligation of \$47,370.
2. Monthly operating costs. Payments for monthly work completed shall be made as follows:
  - a. Contractor shall timely transmit to County all data required pursuant to this Contract. Contractor also shall submit an invoice(s) and such other substantiating reports as County may require, all in a form satisfactory to Administrator, by the tenth (10th) day of each month, showing the prior month's actual expenditures. County shall make monthly payments based on Contractor's data, invoice(s), and substantiating reports, unless otherwise approved by Administrator.
  - b. No payments will be made if any preceding months' data, reports, or invoices are outstanding, unless otherwise approved by the Administrator.
  - c. No payments will be made for costs incurred by Contractor which are not "allowable costs" applicable to Contractor under 45 C.F.R. Part 92.22(b).
  - d. Whenever Contractor is not in compliance with any provision of this Contract, Administrator may withhold payment until such time as Contractor comes into compliance.
  - e. Administrator also reserves the right to refuse payment to Contractor or to later disallow costs for any expenditure determined by Administrator not to be in compliance with this Contract, or unrelated to activities for which this Contract provides, or inappropriate to such activities; or for which there is inadequate supporting documentation presented; or for which prior approval was required but was either not requested or not granted. Payment to Contractor may be refused until County receives reimbursement for any Contractor outstanding disallowed costs.
  - f. Total Monthly Costs may exceed one-twelfth of the Maximum Obligation of County. Upon receipt of sufficient written justification from the Contractor, as determined in the sole discretion of the Administrator, or her designee, the Administrator has the discretion, in any given month, to pay over the monthly one-twelfth of the Maximum Obligation of County as stated in Section C Paragraph 1. Maximum obligation of County. Notwithstanding the above, the total amount of compensation approved during the term of the Contract shall not exceed the Maximum Obligation of County described.
3. Full Compensation. Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder.
4. Contributions.
  - a. Contractor shall provide every participant the opportunity to donate voluntarily toward the cost of the services provided under this Contract. Contractor shall protect the privacy of each such contributor with respect to his or her contribution. No older adult shall be

denied a service because of unwillingness or inability to contribute towards the cost of said service.

- b. Contractor shall keep separate accounts of all contributions for services provided pursuant to this Contract. Contractor shall report such contributions monthly to County in the format required by County.
  - c. Contributions for services provided pursuant to this Contract shall be added to the funds provided to Contractor by County pursuant to this Contract and shall be used for the purposes and in accordance with the terms of this Contract.
5. Third-party revenue. Contractor shall make every reasonable effort to obtain all available reimbursement from third parties (e.g., insurers), for which persons served hereunder may be eligible. All such third-party reimbursements received by Contractor shall be reported to County in the format required by County. The amount of such third party reimbursements shall be deducted from County's maximum obligation hereunder.
6. Interest earned.
- a. If Contractor earns interest on funds received pursuant to this Contract, that interest shall be identified as income to the program(s) for which this Contract provides and shall be used and expended only for said program(s). Contractor shall maintain in its files full documentation of such interest earnings and expenditures.
  - b. If Contractor is a nonprofit it shall maintain any advances of funds or contributions received under this Contract in interest-bearing accounts, unless (i) or (ii) apply:
    - (i) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$250 per year on the funds deposited pursuant to this Contract combined with other federal cash balances, if any, maintained by Contractor; or
    - (ii) The depository would require an average or minimum balance so high that it would not be feasible within the expected cash resources Contractor expects to receive under this Contract.

**D. Payment Terms – Payment in Arrears**

1. Invoices are to be submitted in arrears to the user agency/department to the ship-to address, unless otherwise directed in this Contract. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.
2. Payment of program activities. County will reimburse Contractor for eligible program-related costs only. Contractor shall submit requests for reimbursement to County on a monthly basis, and must provide adequate documentation as required by County in accordance with the OC Community Resources Contract Reimbursement Policy, incorporated herein as Exhibit D. In addition, Contractor will provide a performance progress report for the time period covered, as prescribed by County. Failure to provide any of the required documentation and reporting will cause County to withhold all or a portion of a request for reimbursement, or return the entire reimbursement package to Contractor, until such documentation and reporting has been received and approved by County. County shall make monthly reimbursement payments based on Contractor's data, invoice(s), and substantiating reports as required herein.

3. Invoices shall cover services and/or goods not previously invoiced. Contractor shall reimburse the County of Orange for any monies paid to Contractor for goods or services not provided or when goods or services do not meet Contract requirements.
  4. Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.
- E. Work Plan:** This Contract specifies the Contractual terms and conditions by which the County will procure services from Contractor as further detailed in the Work Plan, identified and incorporated herein by this reference as Exhibit A and the Budget which is attached hereto as Exhibit B.

1. Services pursuant to Exhibits A and B. Contractor agrees to provide services as described in the Work Plan, which is attached hereto as Exhibit A and is hereinafter referred to as Exhibit A, and the Budget, which is attached hereto as Exhibit B, is incorporated herein by reference and is hereinafter referred to as Exhibit B. If Contractor receives funds pursuant to this Contract for more than one program, the funds received by Contractor for each program shall be expended only for that program, and Contractor shall not expend more funds for any program than are set forth in the Budget for that program.

Contractor shall operate continuously throughout the term of this Contract with at least the minimum number and type of staff and volunteers required for provision of the services described. Such staff and volunteers shall be qualified in accordance with all applicable statutes and regulations. Contractor agrees to submit to Administrator, upon request, a list of persons, including employees, subcontractors and volunteers, who are to provide such services, and any changes to said list, by name, title, professional degree, and experience.

2. Additional services. Contractor also shall provide the following services to older adults to whom it provides the services described in subsection (1): With the consent of the older adult, or his or her representative, Contractor shall bring to the attention of appropriate officials for follow-up, conditions or circumstances which place the older adult, or the household of the older adult, in imminent danger. Nothing in this paragraph shall be construed to limit Contractor's responsibilities for elder abuse reporting as set forth in Article 26 (F) of this Contract.
  3. Coordination of services. Contractor shall assure that all services funded under this Contract are coordinated with other appropriate services in the community and that services funded under this Contract do not constitute unnecessary duplications of services provided by other sources.
  4. Coordination of resources. Contractor shall work collaboratively with OoA, particularly the Information and Assistance Program (I&A), to ensure that clients who may need any services available through Older Americans Act or Older Californians Act Programs are referred to I&A for assistance in accessing these services.
- F. Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon the receipt of funds from, and/or appropriation of funds by, the State of California to County. If such funding and/or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
- G. Fiscal Appropriations:** This Contract is subject to and contingent upon applicable budgetary appropriations being approved by the County of Orange Board of Supervisors for each fiscal

year during the term of this Contract. If such appropriations are not approved, the Contract will be terminated without penalty to the County.

**H. Amendments – Changes/Extra Work:** The Contractor shall make no changes to this Contract without the County's written consent. In the event that there are new or unforeseen requirements, the County with the Contractor's concurrence has the discretion to request official changes at any time without changing the intent of this Contract.

**I. Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

Terminate the Contract immediately, pursuant to Section 12 herein;

Afford the Contractor written notice of the breach and ten calendar days or such shorter time that may be specified in this Contract within which to cure the breach;

Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and

Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.

**J. Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary, to ascertain the nature and location of the work to be performed under this Contract; and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.

**K. Conflict of Interest – Contractor's Personnel:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor's employees, agents, and relatives; sub-tier Contractors; and third Parties associated with accomplishing work and services hereunder. The Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County. The Contractor shall not use moneys provided under this Contract to pay or reimburse any staff person of Contractor or any consultant to Contractor, if such staff person or consultant is a member of the Board of Directors, or other official governing body, of Contractor. Contractor shall further be subject to the full texts of local, State and federal conflict of interest statutes applicable to this Contract.

**L. Conflict of Interest – County Personnel:** The County of Orange Board of Supervisors' policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.

**M. Consulting Contract – Follow-On Work:** No person or firm or subsidiary thereof who has been awarded a consulting services Contract or a Contract which includes a consulting component may be awarded a Contract for the provision of services, the delivery of goods or



supplies, or the provision of any other related action which is required, suggested, or otherwise deemed appropriate as an end product of the consulting services Contract. Therefore, any consultant that Contracts with a County agency/department to develop a feasibility study or to provide formal recommendations is precluded from Contracting for any work recommended in the study or included in the recommendations.

- N. Contingent Fees:** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees of the Contractor or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

For breach or violation of this warranty, the County shall have the right to terminate this Contract in accordance with the termination clause and at its sole discretion to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee from the Contractor.

- O. Contractor Bankruptcy/Insolvency:** If the Contractor should be adjudged bankrupt or should have a general assignment for the benefit of its creditors or if a receiver should be appointed on account of the Contractor's insolvency, the County may terminate this Contract.

- P. Contractor's Records:** Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three years after final payment is received from the County. Storage of records in another County will require written approval from the County. Contractor shall reimburse County for all costs and expenses incurred by County and /or the State and U. S. government resulting from travel to a location outside of the County to inspect the records.

**Q. Confidentiality Of Service Recipients**

1. Protection from unauthorized disclosure. Contractor shall protect from unauthorized disclosure the names and other identifying information of service recipients receiving services pursuant to this Contract, and information about, or obtained from said service recipients, except for statistical information not identifying any service recipient.
2. Use of information. Contractor shall not use such information for any purpose other than carrying out Contractor's obligations under this Contract.
3. Transmittal of requests for disclosure. Contractor shall promptly transmit to County all requests for disclosure of identifying information not authorized by the subject of such information.
4. Nondisclosure by Contractor. Contractor shall not disclose, except as otherwise specifically permitted by this Contract or authorized by the service recipient, any such identifying information to anyone other than County or the State of California without prior written authorization from County or the State, except when subpoenaed by a court.
5. Blanket authorizations or blank releases. Contractor may allow clients to authorize the release of information to specific entities, but shall not request or encourage any service recipient to give a blanket authorization or sign a blank release, nor shall the Contractor accept such from any service recipient.
6. Identity. For purposes of this section, identity shall include, but not be limited to, name, identifying number, symbol or other identifying characteristic assigned to the service recipient, such as finger or voice print or a photograph.

7. Furnishing information as required by government contracts. The provisions of this Section shall not restrict Contractor's obligation to provide information required under this or any of its other County, State or federal contracts.

**R. Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should Contractor cease to exist as a legal entity, Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the Administrator.

**S. Legal Status of Contractor**

1. Corporate status.

a. Contractor, if a corporation and not a municipality or Indian Tribal organization, does hereby certify that Contractor is lawfully incorporated within the State of California and that by its articles of incorporation, corporate charter, or the Statutes of California, is empowered and authorized to conduct and provide the services specified in this Contract. Contractor further agrees that if it is shown that the corporate status of Contractor is not valid at the time of the effective date of this Contract or if Contractor loses its lawful corporate status for any reason during the time of this Contract, then sufficient grounds exist for County to terminate this Contract pursuant to Section 12 of this Contract or to suspend payments and operations under this Contract until satisfactory status is restored.

b. Contractor shall notify County immediately of any change in its corporate status.

2. Labor relations. Contractor, by signing this Contract, does swear under penalty of perjury that no more than one (1) final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court requiring Contractor to comply with an order of the National Labor Relations Board.

**T. Records and Audit:**

1. Maintenance and retention. Contractor shall, at all times during the term of this Contract, maintain complete records (which shall include, but not be limited to, accounting records, grants, Contracts, agreements, letters of agreement, insurance documentation, memoranda and/or letters of understanding and client records) of its activities and expenditures hereunder

in a form satisfactory to the State and County. All such records must be maintained and kept available by Contractor as follows:

- a. Until three years after final payment under this Contract or until an audit has occurred and an audit resolution has been reached, whichever is later, unless otherwise authorized in writing by County; or
  - b. For such longer period, if any, as is required by applicable statute, by any other section of this Contract or by subsections 2 or 3 below, or for such longer period as the State or County deem necessary.
2. Termination of Contract. If this Contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for the same periods as set forth in subsections 1 and 3.
  3. Litigation, claims, etc. 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 kept available until 3 years after every action has been cleared to the satisfaction of County and so stated in writing to Contractor.
  4. Accounting records. Unless otherwise agreed in writing by Administrator, Contractor shall maintain accounting records to account for all funds received under this Contract. Said records shall be separate from the records for any other funds administered by Contractor, and shall be kept in accordance with generally accepted accounting principles and procedures. Said records must contain information pertaining to receipt of funds for the program(s) for which this Contract provides, authorization to expend said funds, obligations, unobligated balances, assets, liabilities, outlays or expenditures, program income, contributions, and third-party revenue. Said accounting records must be supported by source documentation (such as cancelled checks, paid bills, payrolls, time and attendance records, Contract and subcontract award documents, etc.), and adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures under this Contract. If the allowability of expenditures cannot be determined because records or documentation of 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 during the audit resolution process.
  5. Financial reporting requirements. Grant funds shall be identified separately. The County requires Contractor to discretely identify State, federal and local grant funding in the Statement of Revenues and Expenditures. In addition, the amounts reported on the Schedule of Revenue and Expenditures shall be displayed by award year beginning July 1st and ending June 30th. For example, for a Contractor with an accounting period ending December 31, 2006, the amounts displayed by award year would appear on separate lines for FY 2005/06 (January 1 through June 30, 2006) and FY 2006/07 (July 1 through December 31, 2006).
  6. Subcontract provisions. Contractor shall place in all of its subcontracts, if any, made pursuant to, and/or utilizing funds provided by, this Contract, provisions requiring the subcontractor: (1) to make available to County, State and federal officials all of its records with respect to the subcontract at any time during normal business hours for the purpose of auditing, examining or making excerpts of such records and auditing all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by the subcontract; and (2) to retain books, documents, papers, records and other evidence pertinent to the subcontract for the period of time specified in this Section T, subsections 1, 2, and 3 of this Contract.
  7. Audit.

- a. If Contractor expends more than \$500,000 in federal funds during the term of this Contract, Contractor shall arrange for an audit to be performed, within one hundred fifty (150) days of the end of Contractor's fiscal year and in accordance with OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," which is incorporated herein by reference. Furthermore, County retains the authority to require Contractor to submit a similarly prepared audit at Contractor's expense even in instances when Contractor's expenditure is less than \$500,000.
  - b. Contractor shall take the following actions in connection with such audit:
    - (i) Ensure that appropriate corrective action is taken to correct instances of noncompliance with federal laws and regulations. Corrective action shall be taken within six months after County receives Contractor's audit report;
    - (ii) Adjust its own records as necessitated by the audit;
    - (iii) Permit independent auditors to have access to its records and financial statements as is necessary for County or Contractor to comply with OMB Circular A-133;
    - (iv) Submit two copies of its audit reports to County no later than 30 days after completion of the reports;
    - (v) Procure audit services in accordance with OMB Circular A-110 procurement standards and provide maximum opportunity for small and minority audit firms;
    - (vi) Include in Contract(s) with auditor(s) provisions that the auditor(s) will comply with all applicable audit requirements;
    - (vii) Include in its Contract with independent auditors a clause permitting representatives of County or the State to have access to the work papers of the independent auditors;
    - (viii) Provide to County, the Bureau of State Audits, and their designated representatives, the right to review and to copy all audit reports and any supporting documentation pertaining to the performance of this Contract, and the option to perform audits and/or additional work as needed;
    - (ix) Cooperate with and participate in any further audits which may be required by County or the State;
    - (x) Ensure that its audit addresses all issues contained in any federal OMB Compliance Supplement that applies to its program;
    - (xi) Ensure that the audit is performed in accordance with Government Auditing Standards, is performed by an independent auditor, and is organization-wide;
    - (xii) Ensure that the audit is all-inclusive, i.e., it includes an audit of the financial statements, an assessment of internal controls (including tests of transactions), and a determination of compliance with laws and regulations of all major federal programs and selected non-major program transactions.
  - c. If total funds awarded under this Contract equal or exceed \$10,000, Contractor shall be subject to examination and audit, including interviews of its staff, by the County and State of California for a period of three (3) years after final payment under this Contract.
8. Final financial statement. Within thirty (30) days after termination of this Contract, Contractor shall submit to Administrator a final financial statement detailing all program

expenditures and all income received during the term of this Contract or include such a final financial statement with Contractor's final invoice and substantiating reports.

**U. Evaluation and Monitoring:**

1. Site inspection. Authorized County, State and federal representatives shall have the right to inspect work, program and service sites of Contractor during the term of this Contract at any time during normal business hours.
2. Access to books and records. During normal business hours, Contractor shall provide access to County, the federal and State grantor agencies, the Controller General of the United States, and any duly authorized County, federal or State representatives to any books, documents, papers, and records of Contractor which are pertinent to this Contract, for the purpose of making audits, examinations, excerpts, copies and transcriptions. Contractor shall include this requirement in any subcontracts to be funded in whole or in part by funds provided pursuant to this Contract.
3. Evaluating, monitoring and assessing Contractor's performance. Authorized County, State and/or federal representatives shall have the right to monitor, assess and evaluate Contractor's performance pursuant to this Contract. Said monitoring, assessment and evaluation may include, but is not limited to, audits, inspections of project premises, visits to participant worksites, and interviews of project staff and participants.
4. Contractor cooperation. Contractor shall actively participate and cooperate with County, State and/or federal representatives in the monitoring, assessment and evaluation processes, including making any program and any administrative staff (fiscal, etc.) available at the request of such representatives.
5. Failure to comply. Failure by Contractor to meet the conditions necessary for an evaluation will be sufficient grounds for County to withhold and/or delay reimbursement or to terminate this Contract.

**V. Contractor Personnel – Drug-Free Workplace:** Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. Contractor will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
2. Establish a drug-free awareness program as required by Government Code Section 8355(b) to inform employees about all of the following:
  - a. The dangers of drug abuse in the workplace;
  - b. The organization's policy of maintaining a drug-free workplace;
  - c. Any available counseling, rehabilitation and employee assistance programs; and
  - d. Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(c) that every employee who works under this Contract:
  - a. Will receive a copy of the company's drug-free policy statement; and
  - b. Will agree to abide by the terms of the company's statement as a condition of employment under this Contract.

4. Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and Contractor may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:
  - a. Contractor has made false certification, or
  - b. Contractor violates the certification by failing to carry out the requirements as noted above.

**W. County Of Orange Child Support Enforcement:** In order to comply with the child support enforcement requirements of the County of Orange, within ten (10) days of award of Contract, the selected Contractor agrees to furnish to the Contract Administrator, the Purchasing Agent, or the agency/department deputy purchasing agent:

1. In the case of an individual Contractor, his/her name, date of birth, Social Security number, and residence address;
2. In the case of a Contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of ten (10) percent or more in the Contracting entity;
3. A certification that the Contractor has fully complied with all applicable federal and State reporting requirements regarding its employees; and
4. A certification that the Contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

Failure of the Contractor to timely submit the data and/or certifications required may result in the Contract being awarded to another Contractor. In the event a Contract has been issued, failure of the Contractor to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within ten (10) calendar days of notice from the County shall constitute grounds for termination of the Contract.

**X. Data – Title To:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.

**Y. EDD Independent Contractor Reporting Requirements:** Effective January 1, 2001, the County of Orange is required to file federal Form 1099-Misc for services received from a “service provider” to whom the County pays \$600 or more or with whom the County enters into a Contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations. (See Exhibit E)

The term “service provider” is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as “an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a Contract for services performed for that service recipient within or without the state.” The term is further defined by the California Employment Development Department to refer specifically to independent Contractors. An independent Contractor is defined as “an individual who is not an employee of the government entity for California purposes and who receives compensation or executes

a Contract for services performed for that... government entity either in or outside of California.”

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at [www.edd.ca.gov/txicr.htm](http://www.edd.ca.gov/txicr.htm).

- Z. Gratuities:** The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County in procuring on the open market any services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
- AA. News/Information Release:** The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this agreement without first obtaining review and written approval of said news releases from the County through the Administrator.
- BB. Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

For County: OC Community Resources/Contract Development & Management  
ATTN: Brandi Solarte, Contract Manager  
1770 N. Broadway  
Santa Ana, CA 92706  
Ph: 714.480.2872; Fax: 714.480.2819

For Contractor: Lisa Wright Jenkins, Executive Director  
Council on Aging – Orange County  
1971 E. 4<sup>th</sup> Street, Suite 200  
Santa Ana, CA 92705  
Ph: 714.479.0107; Fax: 714.479.0234

- CC. Ownership of Documents:** The County has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remains the sole property of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the County.

- DD. Precedence:** The Contract documents consist of this Contract and its attachments and exhibits. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the articles of this Contract, and then the exhibits and attachments.
- EE. Literature:** Any literature, including education and promotional materials, distributed by Contractor for purposes directly related to the Contract shall include language that Contractor's services are supported by funding from the California Department of Aging as directed by County. For the purposes of the Contract, such literature shall include written materials as well as electronic media such as web pages or other information on the Internet. County shall have the right to review and approve all literature prior to distribution. Contractor must ensure the availability of printed materials that are approved by County and in languages appropriate to the demographic composition of the County.
- FF. Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as project manager and key personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by Contractor after County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction.

**General Terms and Conditions:**

1. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this CONTRACT, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for trial to another County.
2. **Entire Contract:** This Contract, including Exhibits and Attachments which are attached hereto and incorporated herein by this reference, when accepted by the Contractor either in writing or other commencement of performance hereunder, contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County.
3. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.



4. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
5. **Delivery:** Time of delivery of services is of the essence in this Contract. County reserves the right to refuse any services and to cancel all or any part of the descriptions or services that do not conform to the prescribed scope of services.
6. **Acceptance/Payment:** Unless otherwise agreed to in writing by the County, 1) acceptance shall not be deemed complete unless in writing and until all the services have actually been received to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
7. **Warranty:** Contractor expressly warrants that the services covered by this Contract are fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnities as identified in Section 18 below, and as more fully described in Section 18, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
8. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in section 18 below, it shall indemnify, defend and hold County and County Indemnities harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.
9. **Assignment or Sub-Contracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, Administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-contracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
10. **Procurement**
  - a. **Competitive process.** Contractor acknowledges that the procurement of all supplies, services and equipment pursuant to, and utilizing funds provided by, this Contract involves the expenditure of public funds and that the use of a competitive process open to all interested competitors is necessary to maintain the public trust and to allow all interested persons to compete for business resulting from expenditure of said public funds.
  - b. **Non-profit Contractor.** If Contractor is a non-profit organization, Contractor shall comply with standards and guidelines provided in 45 C.F.R., Part 74, in procuring all supplies, equipment, construction and services pursuant to, and/or utilizing funds provided by, this Contract.

- c. Local government Contractor. If Contractor is a local government, Contractor shall comply with the directives applicable to procurement by subgrantees set forth in 45 C.F.R. Part 92.36 in procuring all supplies, services and equipment pursuant to, and/or utilizing funds provided by, this Contract.
  - d. Deviation. Should Contractor wish to deviate from the requirements of this Section, or wish to issue a subcontract to other than the lowest bidder or competitor, Contractor shall submit written justification therefore to Administrator for approval or denial, and shall withhold any further action until receipt of written notice of Administrator's approval of said request. The decision of Administrator shall be final.
11. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of Section 1720 et seq. of the California Labor Code.
12. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligations.
- a. Termination for cause. In the event of: (1) a violation of the law or failure to comply in a timely manner with any condition of this Contract; (2) inadequate program performance; (3) failure to comply with reporting requirements; (4) evidence that Contractor is in such an unsatisfactory financial condition, as determined by County, as to endanger performance of this Contract, including the loss of other funding sources; (5) delinquency in payment of taxes or the costs of performance of this Contract in the ordinary course of business; (6) appointment of a trustee, receiver or liquidator for all or a substantial part of Contractor's property, or institution of bankruptcy, reorganization, arrangement of liquidation proceedings by or against Contractor; (7) service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against Contractor's assets or income; (8) bankruptcy proceedings of Contractor; (9) finding of debarment or suspension; or (10) material change in Contractor's organizational structure, (11) any breach of Contract, and (12) any misrepresentation, or fraud on the part of the Contractor; County may terminate this Contract and be relieved of the payment of any compensation to Contractor.
- In the event of such termination, County may proceed with the work for which this Contract provides in any manner deemed proper by County. The cost to County of completing the work for which this Contract provides shall be deducted from any sums due Contractor under this Contract.
- b. Contractor not relieved of liability. Notwithstanding the above, Contractor shall not be relieved of liability to County for damages sustained by County by virtue of any breach of this Contract by Contractor, and County may withhold any payments to Contractor until such time as the exact amount of damages due County from Contractor is determined.
  - c. Termination for convenience. County may terminate this Contract, without cause, upon thirty (30) days written notice to Contractor, except County may terminate this Contract

for failure of any of the funding contingencies set forth in Section F, Contingency of Funds, upon ten (10) days written notice to Contractor.

- d. Return of funds. Contractor agrees that upon expiration or notice of termination of this Contract or dissolution of Contractor's entity, Contractor shall, immediately upon written demand, return to County all funds paid to Contractor by County which are not payable for goods or services delivered prior to the termination or expiration of this Contract or the dissolution of Contractor's entity.
  - e. Cancellation of commitments/termination claim. After receipt of notice of termination, Contractor shall cancel outstanding commitments required by this Contract.
    1. With respect to the above-cancelled commitments, Contractor agrees to provide, within ten (10) days of a notice of termination, a plan for settlement of all outstanding liabilities and all claims arising out of such cancellation of commitments. Such plan shall be subject to the approval of Administrator.
    2. Contractor shall submit a termination claim to Administrator promptly after receipt of a notice of termination, but in no event later than sixty (60) days from the effective date thereof unless an extension, in writing, is granted by Administrator.
13. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
14. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either party to any other remedies provided by law.
15. **Independent Contractor:** Contractor shall be considered an independent Contractor and neither Contractor nor its employees; nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor nor its employees; nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.
16. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.
17. **Performance Standards**
- A. Accepted professional standards. The performance of work and services pursuant to this Contract by Contractor and its subcontractors, if any, shall conform to accepted professional standards associated with all services provided under this Contract. Contractor shall resolve all issues regarding the performance of Contractor and its

- subcontractors, if any, under this Contract using good administrative practices and sound judgment. Contractor shall be accountable to County for the proper use of funds provided to Contractor pursuant to this Contract and for the performance of all work and services pursuant to this Contract.
- B. Performance of Contractor. Contractor agrees to meet the performance standards listed in Exhibit A and in the California Department of Aging Standard Agreement Terms and Conditions, Exhibit C.
- C. Reporting requirements.
1. Contractor will be required to submit records, statistical information, financial reports, and program information in electronic or paper format as required by the County of Orange OoA.
  2. Contractor shall retain all collected data for the periods specified in Section T of this Contract. County has the right to review this documentation at any time during normal business hours.
  3. County reserves the right to withhold payment or to terminate this Contract for nonconformance with data collection and reporting requirements.
  4. Information related to the California Department of Aging Standard Agreement Terms and Conditions, shall be obtained in accordance with current OoA Management Information System (MIS) reporting procedures.
  5. Contractor is required to collect and report program data to OoA, including if applicable properly registering every client receiving services under this Contract, in compliance with the data reporting system required by the California Department of Aging.
  6. Data shall be collected by Contractor every time a service is delivered to a registered client. Data shall be reported to OoA monthly, or as designated by Administrator.
  7. Contractor will also be required to submit to OoA other records, statistical information, financial reports, invoices, and program information in electronic or paper format by the 10th of every month unless otherwise authorized by Administrator.
  8. If County-provided data collection equipment is provided, Contractor must maintain such equipment in a secure office environment.
  9. Within 10 days of award of this Contract the Contractor must inform the OoA of the designated primary and one back-up staff member who will be responsible for (i) through (v) below. The Contractor must inform the OoA within 72 hours of any changes to this designation. New designee(s) will comply with systems training as designated by OoA.
    - (i) Supervising the collection of, or collecting data from this program;
    - (ii) Compiling collected data and reconciling it to data collected;
    - (iii) Recording collected data in a format required by OoA, using an application required by OoA;
    - (iv) Distributing forms and reports to the responsible person and collecting completed forms; and

- (v) As required, completing all required OoA/CDA forms.
- 10. Computer Interface Capability: Contractor's computer must meet the minimum hardware/software requirements specified by the vendor that is contracted with the OoA to provide the required CDA reporting data, if required by Administrator. Contractor must also maintain computer hardware/software that is able to send and receive email and attachments from Administrator.
- 11. Failure to comply with any portion of the system requirements as herein described violates the instructions and specifications of the California Department of Aging Terms and Conditions as required by the State and County. County reserves the right to withhold payment or to terminate this Contract for nonconformance with data collection and reporting requirements.

## 18. Insurance

### **Insurance Provisions**

Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense and to deposit with the County Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with and to keep such insurance coverage and the certificates therefore on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a 0 by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

### **Qualified Insurer**

The policy or policies of insurance must be issued by an insurer licensed to do business in the state of California (California Admitted Carrier) or have a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**

If the insurance carrier is not an admitted carrier in the state of California and does not have an A.M. Best rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<b>Coverage</b>	<b>Minimum Limits</b>
Commercial General Liability	\$1,000,000 per occurrence; \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned, and hired vehicles	4 passengers or less: \$1,000,000 combined single limit 7 passengers or less: \$2,000,000 combined single limit 8 passengers or more: \$5,000,000 combined single limit
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Sexual Misconduct Liability	\$1,000,000 per occurrence

### **Required Coverage Forms**

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

### **Required Endorsements**

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

1. An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds.
2. A primary non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.

All insurance policies required by this Contract shall give the County of Orange 30 day notice in the event of cancellation and 10 days for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the Certificate of Insurance.

The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable certificates of insurance and endorsements with County incorporating such changes within thirty days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

In addition to any other requirements of this Contract, Contractor shall notify County of any modification, termination, or cancellation of any Contract of insurance secured by Contractor pursuant to this Contract as soon as Contractor learns of the potential for, or existence of, whichever is earlier, any such modification, termination or cancellation.

Should Contractor fail to comply with the provisions of this section, Administrator may withhold or delay payments to Contractor, or terminate this Contract.

19. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials, and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of Section 18 above, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
20. **Changes:** Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.
21. **Change of Ownership:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County.
22. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and Contractor avails himself of any available remedies.
23. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.

24. **Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of section 18 above, Contractor agrees that it shall defend, indemnify and hold County and County Indemnities harmless from all liability, damages, costs, and expenses arising from or related to a violation of such laws.
25. **Compliance With Non-Discrimination Laws:**
- A. State laws.
1. Contractor's signature affixed hereon shall constitute a certification, under penalty of perjury under the laws of the State of California, that Contractor has, unless exempted, complied with the nondiscrimination program requirements of Government Code Section 12900 (a-f) and Title 2, California Code of Regulations, Section 8103.
  2. Contractor shall include the nondiscrimination and compliance provisions of this subsection in all subcontracts to perform work under this Contract.
- B. Title VI of Civil Rights Act. Contractor hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 80) issued pursuant to that title, to the end that, in accordance with Title VI of the Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which funds are made available under this Contract. Contractor hereby gives assurance that it will immediately take any measures necessary to effectuate this Contract.
- C. Title VII of Civil Rights Act. Contractor shall comply with Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000), as amended by the Equal Opportunity Act of March 24, 1972 (Public Law No. 92-261), and with all applicable rules, regulations and orders promulgated pursuant thereto, as now in existence or as hereafter amended.
- D. Disability discrimination. Contractor shall comply with Sections 503 and 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and all requirements imposed by the applicable regulations and guidelines issued pursuant to those statutes, including 45 CFR, Part 84.
- E. Failure to comply. If Contractor fails to comply with the requirements of any subsection of this Section, Administrator may withhold payment to Contractor and/or terminate this Contract in accordance with Section 12.
26. **Compliance with Other Laws:**
- A. Laws related to Contract. Contractor and its subcontractors shall administer the program(s) funded by this Contract in accordance with this Contract, and with all applicable local, State and federal laws, regulations, directives, guidelines and/or manuals.
- B. Laws applicable to Contractor's operations. Contractor and its subcontractors shall comply with all federal, State and local laws and regulations pertinent to their operations, including, but not limited to all statutes, ordinances, regulations, directives, guidelines and/or manuals



pertaining to wages and hours of employment, occupational safety, fire safety, health and sanitation.

- C. Federal environmental laws. If the amount of compensation Contractor shall receive under this Contract exceeds \$100,000, Contractor and its subcontractors shall comply with all applicable orders or requirements issued under the following laws:
1. Clean Air Act as amended (42 U.S.C. 1857)
  2. Clean Water Act (33 U.S.C. 1368)
  3. Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.)
  4. Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738).
- D. State Energy Plan. Contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the State Energy Plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stats. 871).
- E. Withholding. Contractor shall promptly forward payroll taxes, insurances and contributions, including State Disability Insurance, Unemployment Insurance, Old Age Survivors Disability Insurance, and federal and State income taxes withheld, to designated governmental agencies as required by law.
- F. Elder abuse reporting. Contractor shall comply with all applicable requirements pertaining to the reporting of elder and dependent adult abuse, including Welfare and Institutions Code Section 15600 et. seq. Before permitting any of its employees, agents, officers, Contractors, subcontractors or volunteers to provide services supported by this Contract, Contractor shall deliver to them, and obtain their signatures on, the forms described in Welfare and Institutions Code Section 15659, describing the responsibility to report elder and dependent adult abuse. Contractor shall retain the originals of all such signed forms.
- G. Licenses, permits, etc. Contractor and its subcontractors shall secure, and maintain in full force and effect, any and all licenses, permits, notices, certificates and authorizations, required by statutes, ordinances, rules and regulations of any applicable governmental entities pertaining to Contractor's or its subcontractors' operations.
- H. State and local environmental and land use laws.
1. Contractor shall comply with the California Environmental Quality Act (CEQA) and Section 65402 of the Government Code, as may be required by the land use agency of jurisdiction. Contractor further agrees to provide Administrator proof that Contractor has complied with, and maintains compliance with, all zoning regulations and that Contractor has obtained, and is maintaining in full force and effect, all necessary licenses, permits, certifications, and authorizations to operate said programs at each location, or as may otherwise be approved by Administrator.
  2. By signing this CONTRACT, CONTRACTOR swears under penalty of perjury that CONTRACTOR is not:
    - a. in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district;
    - b. subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or

- c. finally determined to be in violation of provisions of federal law relating to air or water pollution.
- I. **Debarment.**
  - 1. Contractor shall not make any award or permit any award at any time to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal/State assistance programs.
  - 2. Contractor shall timely execute any and all amendments to this Contract or certificates or other required documentation relating to its subcontractors' debarment/suspension status.
- J. **Failure to comply.** If Contractor fails to comply with the requirements of any subsection of this Section 26, Administrator may withhold payment to Contractor and/or terminate this Contract in accordance with Section 12.
- 27. **Waiver of Jury Trial:** Each Party acknowledges that it is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each Party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any Party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Contract and /or any other claim of injury or damage.
- 28. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
- 29. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
- 30. **Severability:** If any term, covenant, condition, or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- 31. **Calendar Days:** Any reference to the word "day" or "days" herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
- 32. **Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney's fees, costs and expenses.
- 33. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the parties and this Contract.

34. **Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.
35. **Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees, consultants and subcontractors performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employee, consultants and subcontractors for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
36. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County INDEMNITEES") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County INDEMNITEES, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.
37. **Property:**
- A. Property. Unless otherwise provided for in this Section, "property" refers to all assets, capitalized or non-capitalized, used in the performance of this Contract. Property includes real property, including any improvements to real property, machinery, vehicles, furniture, tools, and intangibles, etc. "Property" does not include consumable office supplies such as paper, pencils, toner, file folders, etc.
- B. Written approval. Prior to purchasing any real property, including any improvements to real property, and/or capitalized property, as defined below, using funds provided under this Contract, Contractor shall obtain written approval from Administrator. Approval of budget does not constitute written approval.
- C. Capitalization requirements. Property that meets all of the following requirements shall be considered capitalized property:
1. Property that has a normal useful life of at least 1 year;
  2. Property that has 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. Property that is used to conduct business under this Contract.
- As used in this Contract, the term "equipment" refers only to capitalized property.

- D. Non-capitalized property. Non-capitalized property includes those items which do not meet all three requirements listed in subsection “C” above.
- E. Additions, improvements and betterments. Additions, improvements and betterments to assets meeting all of the requirements listed in subsection “C” 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 include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.
- F. Intangibles.
1. “Intangibles” are property that lack physical substance but give valuable rights to the owner and can be capitalized or non-capitalized. Examples of intangible property include patents, copyrights, leases, and computer software. By contrast, tangible equipment consists of hardware (e.g., computer printer, terminal, etc.).
  2. Costs include all amounts incurred to acquire and to ready intangible assets for their intended uses. Typical intangible property costs include the purchase price, legal fees, and other costs incurred to obtain title to the asset.
- G. Acquisition Information. Contractor shall record the following information when property is acquired:
1. Date acquired;
  2. Property description (include model number);
  3. Property identification number (serial number);
  4. Cost or other basis of valuation;
  5. Fund source; and
  6. Rate of depreciation (or depreciation schedule) if applicable.
- Contractor shall keep track of property purchased with federal, State or County funds, whether capitalized or not. Contractor shall submit to County, with the final invoice of each fiscal year covered by this Contract, a current inventory of property furnished or purchased with funds awarded pursuant to this Contract or any predecessor Contract for the same purpose. Contractor shall use the current Report of Project Property Furnished/Purchased with Contract Funds form to report property to County.
- H. Disposition of Property.
1. Prior to disposal of any property provided to Contractor by County or purchased with federal, State or County funds provided to Contractor by County, Contractor must obtain approval from County, 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 Administrator. Contractor shall use the current Request to Dispose of Property form to make such a request. Contractor shall follow Administrator’s directions regarding disposition of property.
  2. Contractor shall immediately investigate and within five (5) days fully document the loss, destruction, or theft of such property. Contractor is required to provide a detailed written report including police reports when applicable for any equipment listed on the inventory found to be lost, stolen, or in excess.

- I. Title. The State reserves title to all State-purchased or financed property not fully consumed in the performance of this Contract, unless otherwise required by federal law or regulations. County reserves title to all County-purchased or financed property not fully consumed in the performance of this Contract, unless otherwise required by federal or State law or regulations.
- J. Responsibility. Contractor shall exercise due care in the use, maintenance, protection, and preservation of property purchased with federal, State or County funds or provided to Contractor by County, and shall assume responsibility for the replacement or repair of such property during the period of this Contract and until Contractor has complied with all written instructions from County regarding the final disposition of the property.
- K. Final property inventory. In the event of Contractor's dissolution or upon termination of this Contract, Contractor shall provide a final property inventory to County within twenty-five (25) days of termination of this Contract. County reserves the right to require Contractor to transfer property to another entity, or to the State.
- L. County instructions. To exercise the above right to require Contractor to transfer property, County will issue specific written disposition instructions to Contractor within one hundred and twenty (120) days after termination of this Contract or notification of Contractor's dissolution.
- M. Property use. Contractor shall use the property for the purpose for which it was intended under this Contract. When no longer needed for that use, Contractor shall use it for other purposes, if needed, and with written approval of County, in this order:
1. Another State or County program providing the same or similar service;
  2. Another State-funded program; or
  3. A State/federally-funded program.
- N. Shared use. Contractor may share use of the property and equipment or allow use by other programs, upon written approval of Administrator. As a condition of such approval, County may require reimbursement under this Contract for the use of the property.
- O. No personal gain or usurpation of competitive advantage. Contractor shall not use equipment or supplies acquired under this Contract with federal, State and/or County monies for personal gain or to usurp the competitive advantage of a privately-owned business entity.
- P. Budgeted item. If the purchase of property is a reimbursable item, the property to be purchased will be specified in Exhibit B attached hereto.
- Q. Return to County. If Contractor ceases to provide services acceptable to Administrator under this Contract, any and all property that has a remaining useful life shall be returned to County, unless County authorizes its use as provided in subsection (M) above.

THE REMAINDER OF THE CONTRACT WAS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Parties hereto certify that they have read and understand all the terms and conditions contained herein and have hereby caused this CONTRACT to be executed.

**CONTRACTOR: Council on Aging -- Orange County**

By: _____	By: _____
Title: _____	Title: _____
Dated: _____	Dated: _____

\*For Contractors that are corporations, signature requirements are as follows: 1) One signature by the Chairman of the Board, the President or any Vice President; and 2) One signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or an Assistant Treasurer.

For Contractors that are not corporations, the person who has authority to bind the Contractor to a Contract, must sign on one of the lines above.

\*\*\*\*\*

**COUNTY OF ORANGE**  
A Political Subdivision of the State of California

By: _____	Dated: _____
Steve Franks, Director OC Community Resources	

By: Karen P. Prather DEPUTY COUNTY COUNSEL  
 January 14, 2014

**Work Plan Template FY 2013/14**

Financial Alignment Contract

Agency Name: Council on Aging-  
Orange County

PSA 22, Orange County Office on Aging

<b>Goal #1: Increase Capacity to Provide Services</b>					
<b>Objectives</b>	<b>Key Tasks</b>	<b>Lead Person(s)/Title</b>	<b>Start Date</b>	<b>End Date</b>	<b>Intended Outcomes</b>
Increase number of staff.  <i>Add 50% FTE.</i>	<ul style="list-style-type: none"> <li>• Create job descriptions</li> <li>• Post/distribute descriptions to contacts</li> <li>• Schedule and interview prospects</li> <li>• Select team members</li> </ul>	Lisbeth Roberts, HICAP Department Manager	<i>3/4/2014</i>	<i>6/30/2014</i>	To increase the number of paid staff counselors that have the competencies to work with Cal MediConnect clients.
Increase number of volunteers.  <i>Add 10 new volunteer Counselors.</i>	<ul style="list-style-type: none"> <li>• Create volunteer job descriptions</li> <li>• Post/distribute descriptions to current network.</li> <li>• Invite to informational meeting</li> <li>• Schedule trainings (4 during course of contract)</li> <li>• Register counselors</li> </ul>	Mary Ozurovich, HICAP Coordinator of Volunteers	<i>3/4/2014</i>	<i>6/30/2014</i>	More Counselors with technical knowledge of Cal MediConnect and Medicare in general will be available to support clients through transition.

**Work Plan Template FY 2013/14**

Financial Alignment Contract

Agency Name: Council on Aging-  
Orange County

PSA 22, Orange County Office on Aging

<b>Goal #2: Train SHIP/HICAP Counselors</b>					
<b>Objectives</b>	<b>Key Tasks</b>	<b>Lead Person(s)/Title</b>	<b>Start Date</b>	<b>End Date</b>	<b>Intended Outcomes</b>
<p>Increase the knowledge of current and new HICAP Counselors about Cal MediConnect.</p> <p><i>Train 50 existing HICAP Counselors. Not including the 10 new volunteer Counselors.</i></p>	<ul style="list-style-type: none"> <li>• Create list of appropriate training resource agencies</li> <li>• Contact resources agencies and strategize on training plan</li> <li>• Identify web based training opportunities for staff and volunteers</li> <li>• Schedule trainings</li> <li>• Track training hours</li> </ul>	<p>Lisbeth Roberts, HICAP Department Manager</p> <p>Julie Schoen, HICAP Legal Counsel</p>	<i>3/4/2014</i>	<i>6/30/2014</i>	More counselors will be available to provide assistance to clients.
<b>Goal #3: Conduct Outreach</b>					
<b>Objectives</b>	<b>Key Tasks</b>	<b>Lead Person(s)/Title</b>	<b>Start Date</b>	<b>End Date</b>	<b>Intended Outcomes</b>
<p>Educate people in the community about Cal MediConnect.</p> <p><i>Conduct 30 presentations. Reach 10,000 through interactive presentations.</i></p>	<ul style="list-style-type: none"> <li>• Identify groups from HICAP partner list to contact about new program</li> <li>• Contact to schedule presentations to staff and/or clients</li> <li>• Distribute materials created through state stakeholder process</li> <li>• Include information on</li> </ul>	<p>Lisbeth Roberts, HICAP Department Manager</p> <p>Amy Bassoff, Education and Outreach Coordinator</p>	<i>3/4/2014</i>	<i>6/30/2014</i>	Reach professionals in the aging and disability services field and provide them with information so they can triage issues related to Cal MediConnect enrollment.



**Work Plan Template FY 2013/14**

Financial Alignment Contract

Agency Name: Council on Aging-  
Orange County

PSA 22, Orange County Office on Aging

	our website				
<b>Goal #4: Counsel Clients</b>					
<b>Objectives</b>	<b>Key Tasks</b>	<b>Lead Person(s)/Title</b>	<b>Start Date</b>	<b>End Date</b>	<b>Intended Outcomes</b>
<p>Counsel clients about Cal MediConnect.</p> <p><i>Counsel 500 clients.</i></p>	<ul style="list-style-type: none"> <li>Review all fact sheets created by CDA/DHCS/Harbage Consulting and revise as needed</li> <li>Finalize contract with translation services</li> <li>Integrate tools/fact sheets into the counseling process for limited income clients</li> <li>Schedule appointments for clients at in-person sites</li> <li>Provide information to clients on the phone</li> </ul>	<p>Lisbeth Roberts, HICAP Department Manager</p> <p>All current staff counselors</p> <p>Additional paid staff HICAP counselors</p> <p>Volunteer HICAP counselors</p>	<p>3/4/2014</p>	<p>6/30/2014</p>	<p>HICAP will provide information to clients that will allow them to make their own informed decision about the best coverage option based on their needs.</p>

**COUNTY OF ORANGE - OFFICE ON AGING  
 OLDER CALIFORNIANS ACT  
 HICAP FINANCIAL ALIGNMENT (FA) GRANT BUDGET  
 BUDGET PROPOSAL SUMMARY & MATCH**

EXHIBIT A 34 of 94

ORGANIZATION: Council on Aging-Orange County  
 ADDRESS: 1971 E. Fourth Street, Suite 200  
Santa Ana, CA 92705  
 PROGRAM: FINANCIAL ALIGNMENT GRANT  
 FISCAL YEAR: 2013-14  
 CONTRACT NO.: \_\_\_\_\_

EXHIBIT: B  
 DATE SUBMITTED: December 26, 2013


<b>X</b>	ORIGINAL	
	AMENDMENT	
	REVISION NO.	

INCOME:

	\$	-	(A1)
	\$	-	(A2)
Financial Alignment Grant	\$	47,370	(A3)
	\$	-	(A4)
	\$	-	(A5)
FEDERAL Trust Fund OTO (CMS):	\$	-	(A6)
<b>SUBTOTAL:</b>	\$	47,370	(A7)

<b>SUB-TOTAL</b>	\$	47,370	(B)
NON-MATCHING CASH	\$	-	(C)
NON-MATCHING IN-KIND	\$	-	(D)
MATCHING CASH	\$	-	(E)
MATCHING IN-KIND	\$	-	(F)
PROGRAM RELATED INCOME	\$	-	(G)
<b>TOTAL BUDGETED AMOUNT</b>	\$	47,370	(H)

<p><b>REQUIRED MATCH COMPUTATION:</b></p> <p>Federal Dollars: <u>N/A</u></p> <p>Minimum Match Required: <u>N/A</u> (J)</p> <p>Matching Cash: <u>N/A</u>          Matching In-Kind: <u>N/A</u>          Total: <u>N/A</u></p> <p align="center"><b>NOT APPLICABLE, HICAP DOES NOT REQUIRE A MATCH</b></p>	<p><b>OVER-MATCH COMPUTATION</b></p> <p>Non-Matching Cash \$ - (C)          Non-Matching In-Kind \$ - (D)          Total \$ -</p>
--	---

Approved by:   
 Authorized Signature Lisa Wright Jenkins, CEO/President

12/26/2013  
Date

**FOR OOA USE ONLY**

Budget  Original

Revision # \_\_\_\_\_

Contract Analyst	<u>ly</u>	Date	<u>1/7/14</u>
Fiscal Officer	<u>SL</u>		<u>1-13-14</u>
Contracts Manager	<u>PD</u>		<u>1/13/14</u>

1 11242010

**COUNTY OF ORANGE - OFFICE ON AGING  
 OLDER CALIFORNIANS ACT  
 HICAP FINANCIAL ALIGNMENT (FA) GRANT BUDGET  
 SUMMARY (by Funding Sources and Revenue Sources)**

ORGANIZATION: Council on Aging-Orange County  
 PROGRAM: FINANCIAL ALIGNMENT GRANT  
 FISCAL YEAR: 2013-14  
 CONTRACT NO.: \_\_\_\_\_

DATE SUBMITTED: December 26, 2013

EXHIBIT: B

X	ORIGINAL
	AMENDMENT
	REVISION

COST CATEGORY	TOTAL BUDGETED COSTS	STATE FUNDING				FEDERAL FUNDING		MATCHING		PROGRAM RELATED		OTHER FUNDING (NON-MATCHING)	
		HICAP Reimbursement	HICAP Reimbursement OTO	HICAP Fund	HICAP Fund OTO	Federal Trust Fund	Federal Trust Fund OTO	CASH	IN-KIND	INCOME	RELATED	CASH	IN-KIND
		\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
PERSONNEL	37,530					37,530							
TRAVEL AND TRAINING	255					255							
EQUIPMENT	-					-							
CONSULTANTS/PROF. SRVS	1,200					1,200							
OTHER COSTS	8,385					8,385							
INDIRECT COSTS	-					-							
<b>TOTAL BUDGETED COSTS</b>	<b>\$ 47,370</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 47,370</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

**SUMMARY BY FUNDING SOURCE**

REVENUE SOURCES	PROGRAM RELATED INCOME		MATCHING CASH	NON-MATCHING CASH
	Federal Trust Fund	Federal Trust Fund OTO		
* Federal (no OoA \$)	0	0	0	0
Cities - (specify)	0	0	0	0
State - (specify)	0	0	0	0
Third-Party Payments	0	0	0	0
Fundraisers - (specify)	0	0	0	0
Other - (specify)	0	0	0	0
<b>TOTAL</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

Please use the Revenue Sources section to list the sources and amounts of revenue listed in your budget.

\* Exceptions: Federal Dollars under Legal Services; Must be approved by OoA.













**Contract Terms and Conditions – Exhibit A  
Financial Alignment Contract**

ARTICLE I. DEFINITIONS

- A. **Accomplishments** mean tasks that were accomplished during this reporting period.
- B. **Cal MediConnect** (formerly the Dual Eligible Demonstration Project) means a demonstration program that coordinates health care services for people with Medicare and Medi-Cal through an integrated system of health care delivery, including medical, behavioral, and long-term support. Cal MediConnect is authorized by Section 1115A of the Social Security Act (added by Section 3021 of the Patient Protection and Affordable Care Act, PL 111-148), and it is a key element of California's Coordinated Care Initiative (CCI). The CCI was authorized pursuant to SB 1008 (Chapter 33, Statutes of 2012) and SB 1036 (Chapter 45, Statutes of 2012).
- C. **Contractor** means the Area Agency on Aging (AAA) awarded funds under this Agreement and which is accountable to the State and/or federal government for use of these funds and is responsible for executing its provisions and services.
- D. **Dual Eligible Beneficiaries** means individuals who qualify for both public health insurance programs, Medicare and Medi-Cal.
- E. **Eligible Service Population** means dual eligible beneficiaries targeted for enrollment into a Cal MediConnect Health Plan.
- F. **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), tailored to the specific needs of dual eligible beneficiaries targeted for enrollment into a Cal MediConnect Health Plan.
- G. **Enrollment Brokers** means third-party entities that enroll beneficiaries into Cal MediConnect plans of their choice or in some cases, passively enroll beneficiaries who do not make a choice.
- H. **Financial Alignment Model** means the model the State is using to enroll dual eligible beneficiaries in managed care plans that integrate benefits and align financial incentives between Medicare and Medi-Cal.
- I. **Health Insurance Counseling and Advocacy Program (HICAP)** is defined in State law, Welfare and Institutions Code (W&I), Section 9541.
- J. **Indirect Costs** means costs incurred for a common or joint purpose benefitting more than one cost objective and not readily assignable to the cost objective specifically benefitted without effort disproportionate to the results achieved.



**Contract Terms and Conditions – Exhibit A  
Financial Alignment Contract**

ARTICLE I. DEFINITIONS (Continued)

- K. **Milestones** means high-level goals that define the phases of this project.
- L. **Options Counseling** means the provision of local counseling and informational resources that enable dual eligible beneficiaries to make informed decisions about options they have for receiving their Medicare and Medi-Cal benefits.
- M. **State HICAP Automated Report Program (SHARP)** means the State's proprietary database for reporting HICAP data to the Centers for Medicare and Medicaid Services (CMS).
- N. **Social Security Act Section 1115A** means the section added by Section 3021 of the Patient Protection and Affordable Care Act (PPACA) (P.L. 111-148) that authorizes the Innovation Center to test innovative payment and service delivery models to reduce program expenditures under Medicare, Medicaid, and the Children's Health Insurance Program while preserving or enhancing quality of life.
- O. **State and Department** mean the State of California and the California Department of Aging (CDA) interchangeably.
- P. **Subcontractor or Vendor** means the legal entity that receives funds from the Contractor to provide direct services identified in the Agreement. Subcontract and/or Vendor Agreement means a subcontract and/or vendor agreement supported by funds from this Agreement.

ARTICLE II. SCOPE OF WORK

A. General Provisions

- 1. The Scope of Work shall be performed by the AAA and/or its HICAP subcontractor.
- 2. All contract and subcontract activities must be over and above those related activities provided through other funding sources (e.g., basic federal SHIP funds) and must meet CDA and CMS performance requirements.

B. Contractor if providing HICAP directly or through a subcontract shall:

- 1. Ensure that the Eligible Service Population is provided with enhanced outreach activities, materials, and options counseling regarding Cal MediConnect and alternatives. Outreach materials and counseling activities should be health literate, culturally/linguistically appropriate, and

**Contract Terms and Conditions – Exhibit A  
Financial Alignment Contract****ARTICLE II. SCOPE OF WORK (Continued)**

- specific to the needs of the Eligible Service Population regarding Cal MediConnect benefits and options.
2. Ensure that individuals in the Eligible Service Population have access to information and counseling to empower them to make informed decisions about their Medicare and Medi-Cal benefit options. This information and counseling shall be unbiased, timely, accurate, and consumer-friendly. It shall include, but not be limited to, how and when the project will be implemented, appeal rights, and how to participate in the program.
  3. Ensure the provision of enhanced outreach activities and materials to partners, beneficiary caregivers, providers, and other aging network programs (e.g., Information and Assistance, Aging and Disability Resource Centers (ADRC), county Medi-Cal offices, and not-for-profit agencies) regarding Cal MediConnect and the availability of HICAP options counseling for the Eligible Service Population and refer beneficiaries to other resources as needed.
  4. Provide a detailed work plan to CDA outlining performance goals, measurable outcomes, major objectives, key tasks, and time frames (start and end dates). Work plans must also ensure coordination with the State's enrollment brokers and vendor(s) and appeals mechanisms associated with the Financial Alignment model.
  5. Ensure adequate staffing to cover all contract requirements and timelines.
  6. Ensure that all persons affiliated with the program and who provide counseling, including paid personnel and volunteers, are trained and registered with the State as HICAP Counselors in accordance with law, regulation, and the HICAP Program Manual, which is incorporated by reference.
  7. Ensure that a customer satisfaction process and a related corrective action plan are implemented.
  8. Prepare and submit the budget to the CDA Fiscal Team. Submit mid-term and annual budget reports as specified by CDA.
  9. Monitor, on an ongoing basis, all use of contract funds through reporting, regular contact, or other means to provide reasonable assurance that the contract funds are administered in compliance with laws, regulations, and the provisions of contract and that performance goals are achieved [OMB Circular A-133.400(d)(3)]. Program and fiscal monitoring shall be

**Contract Terms and Conditions – Exhibit A  
Financial Alignment Contract****ARTICLE II. SCOPE OF WORK (Continued)**

performed during the award year. Provide support and technical assistance to subcontractors and respond in writing to all their written requests for direction and guidance.

10. Ensure that all responsible persons have access to up-to-date materials, standards, policies, and procedures relevant to Cal MediConnect.
11. Ensure all applicable provisions required within this Agreement are included in any subcontract entered into by the Contractor pursuant to this Agreement.
12. Review, approve, and monitor subcontractor budgets and expenditures and any subsequent amendments and revisions to budgets. The Contractor shall, to the extent feasible, ensure that all budgeted funds are expended by the end of each fiscal year.
13. Provide timely notice to CDA of any changes to the program or changes in the status of the Contractor that could restrict the operations of, or access to, HICAP services. Require the subcontractor to provide timely notice to the Contractor of any changes to the program or changes in the status of the subcontractor that could restrict operation of, or access to, HICAP services. These changes include, but are not limited to: personnel changes, program or project phone number changes, headquarters office address changes, and mailing address changes. If subcontracted, the Contractor will forward this information to the CDA HICAP team.
14. Ensure that all records containing confidential client information shall be handled in a confidential manner and in accordance with the requirements for monitoring, audits, and confidentiality, as outlined in Exhibit D, Articles VI, IX, X, and XVIII.
15. Collect, verify, approve, and report all required data to CDA using the State HICAP Automated Reporting System (SHARP).

**C. Other Provisions and Assumptions**

1. CDA HICAP Team approval of the work plan and contract budget, which are hereby incorporated by reference, is required before payments under this contract can be made to the AAA.

**Contract Terms and Conditions – Exhibit A  
Financial Alignment Contract**

**ARTICLE II. SCOPE OF WORK (Continued)**

2. The Contractor shall:
  - a. Ensure services are provided to the Eligible Service Population as defined in Exhibit A, Article I, Section F.
  - b. Comply with all applicable standards and guidelines for procurement of supplies, equipment, and services as provided in 45 CFR, Part 74, and 45 CFR, Part 92, "Procurement Standards."
  - c. Ensure that project staff and volunteers neither engage in the solicitation of insurance nor endorse the services of any insurer or managed care plan, claims processing organization, or other enterprise that could benefit from activities conducted by the HICAP. All project staff and volunteers shall provide HICAP educational services in a manner that is objective and impartial and shall provide counseling consistent with the best interests of the clients and which preserves the independent decision-making responsibilities of the client.
  - d. Ensure that the project, project staff, and project volunteers shall not have a conflict of interest such as, but not limited to, a business relationship with insurers, health plans, or organizations posing a conflict of interest. The Contractor shall assure that project staff and volunteers do not accept money or gifts from any client in exchange for services in accordance with Department guidance on conflict of interest and the HICAP Program Manual.
  - e. Take all reasonable and necessary measures to ensure that advisors, employees, and volunteers associated with the operation of HICAP agree to act in a manner that prevents the appearance of impropriety or any other act which would place in jeopardy HICAP's reputation as an independent and impartial program. The Contractor shall ensure that advisors and governing board members shall recuse themselves from HICAP business if they are employed by, or receive compensation from, the health insurance or managed health care industries.

**D. Data Reporting and Collection**

1. The Contractor shall have, either as a direct or contracted HICAP, written reporting procedures that ensure that all performance data reports submitted are timely, complete, accurate and verifiable, using CDA-approved reporting procedures and timelines.

**Contract Terms and Conditions – Exhibit A  
Financial Alignment Contract**

**ARTICLE II. SCOPE OF WORK (Continued)**

The Contractor shall coordinate with its HICAP to meet the data reporting requirements as specified by CDA and CMS.

2. The Contractor shall ensure, either as a direct or contracted HICAP, that program performance data is entered into the State HICAP Automated Reporting Program (SHARP) in accordance with Department requirements [W&I Code, Section 9541(c)(8)].
3. The Contractor shall review and approve program performance data entered into SHARP.
4. The Contractor shall provide the following reports in accordance with the report schedule outlined below:
  - a. **Quarterly Data Element Reports:** Contractors are required to track and enter required data elements (see section 5 below) on a quarterly basis using SHARP. The quarterly reports are due 4/15, 7/15, 10/15, and 1/15.

Quarter	Reporting Period	Due Date
One	January 1 – March 31	April 15
Two	April 1 – June 30	July 15
Three	July 1 – September 30	October 15
Four	October 1 – December 31	January 15

- b. **Mid-Term Progress Reports:** A narrative mid-term progress report is due halfway through each project year.

Mid-Term Reports	Reporting Period	Due Date
Project Year 2013-14	6/4/13-12/3/13	12/13/13
Project Year 2014-15	6/4/14-12/3/14	12/12/14
Project Year 2015-16	6/4/15-12/3/15	12/11/15

- c. **Year-End Reports:** A narrative year-end progress report covering a 12-month reporting period is due after the end of the first and second project years.

Year-End Reports	Reporting Period	Due Date
Project Year 2013-14	6/4/13-6/3/14	8/7/14
Project Year 2014-15	6/4/14-6/3/15	8/7/15

**Contract Terms and Conditions – Exhibit A  
Financial Alignment Contract**

ARTICLE II. SCOPE OF WORK (Continued)

- d. **Final Report:** A final report is required at the end of the three-year contract period.

Final Report	Reporting Period	Due Date
Project Year	6/4/13-6/3/16	8/5/16

5. The Contractor shall provide the following minimum required data elements for quarterly reporting in SHARP:
- a. Number of HICAP counselors serving dual eligible beneficiaries by zip code and county.
  - b. Number of HICAP counselors trained on the financial alignment demonstration by zip and county.
  - c. Number of referrals to HICAP from:
    - Medi-Cal office
    - Enrollment brokers
    - 1-800-MEDICARE
    - CMS Federal Coordinated Health Care Office (FCHCO)
    - Other
  - d. Number of types of topics discussed or services provided to beneficiaries:
    - Enrollment broker assistance
    - Letters received from Medi-Cal office
    - Managed care options
    - Opt-out of program
    - Enrollment assistance
    - Other Medicare issues
    - Publications and other materials
  - e. Number and type of referrals:
    - Referred to other service(s)/organizations
    - Referred to enrollment broker
    - Referred to the appeals process
  - f. Number of beneficiaries that elected to opt-out.



**Contract Terms and Conditions – Exhibit A  
Financial Alignment Contract****ARTICLE III. CONTINUITY OF SERVICE AND TRANSITION PLAN (Continued)**

The transition plan must be approved by the Department prior to implementation and shall at a minimum include the following:

1. A description of how open or active counseling and legal cases (if applicable) shall be transitioned to the new contractor.
  2. A description of how names, addresses, and telephone numbers of current clients will be handled and transferred to the new contractor.
  3. A description of how clients will be notified about the change and how their services will be continued.
  4. A description of how communications with other HICAP sites, local agencies and advocacy organizations may be made to assist in locating alternative services as needed.
  5. A description of how community referral sources will be informed of the change of Contractor or subcontractor and the continuation of services.
  6. A description of how sensitive, confidential records, including personal health information, will be transferred to ensure adequate protection of the records.
  7. A description of the qualifications of requisite staff that would ensure continued provision of services through the term of the existing contract. [Title 22, Section 7206(e)(4)]
  8. A plan that specifies a timeline for the transition.
  9. A plan to conduct a property inventory and transfer, or return to the Department all equipment purchased with FA Contract funds as directed by the Department.
  10. Additional information as necessary to effect a safe transition of clients from the outgoing Contractor to the new Contractor.
- C. The Contractor shall implement the transition plan as approved by the Department.
- D. The Department will monitor the Contractor's progress in carrying out all elements of the transition plan.



**Contract Terms and Conditions – Exhibit A  
Financial Alignment Contract**

**ARTICLE IV. FINANCIAL ALIGNMENT CONTRACT SPECIFIC TERMS AND CONDITIONS**

- A. This Agreement is issued under the authority of the Section 1115A of the Social Security Act (added by Section 3021 of the Patient Protection and Affordable Care Act, PL 111-148). By receiving funds under this Agreement, the Contractor agrees 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. Trafficking Victims Protection Act of 2000
1. 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).
  2. Subrecipients under this award, and subrecipients' employees shall no:
    - a. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
    - b. Procure a commercial sex act during the period of time that the award is in effect; or
    - c. Use forced labor in the performance of the award or subawards under the award.
  3. Violation of this Act by the contractor and subcontractor may result in termination of this award.

**ARTICLE V. BILINGUAL AND LINGUISTIC PROGRAM SERVICES [GC 11135-11139.5]  
[Title 22 CCR Sections 98211, 98310-98314, 98324- 98326, 98340-98370]**

**A. Needs Assessment**

1. The Contractor shall conduct a cultural and linguistic group needs assessment of the eligible client population in the Contractor's service area to assess the language needs of the population and determine what reasonable steps are necessary to ensure meaningful access to services and activities to eligible individuals. [Title 22 CCR 98310, 98314]
2. The group needs assessment shall take into account the following four factors:
  - a. Number or proportion of Limited English Proficient (LEP) persons eligible to be served or encountered by the program.
  - b. Frequency with which LEP individuals come in contact with the program.
  - c. Nature and importance of the services provided.

**Contract Terms and Conditions – Exhibit A  
Financial Alignment Contract**

**ARTICLE V. BILINGUAL AND LINGUISTIC PROGRAM SERVICES (Continued)**

d. Local or frequently used resources available to the Contractor.

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

3. The Contractor shall prepare and make available a report of the findings of the group needs assessment that summarizes:

a. Methodologies used.

b. The linguistic and cultural needs of non-English speaking or LEP groups.

c. Services proposed to address the needs identified and a timeline for implementation. [Title 22 CCR 98310]

4. The Contractor shall maintain a record of the group needs assessment on file at the Contractor's headquarters at all times during the term of this Agreement. [Title 22 CCR 98310, 98313]

**B. Provision of Services**

1. The Contractor shall take reasonable steps, based upon the group needs assessment identified in subdivision A of this section, to ensure that "alternative communication services" are available to non-English speaking or LEP beneficiaries of services under this Agreement. [Title 22 CCR 98211]

2. "Alternative communication services" include, but are not limited to, the provision of services and programs by means of the following:

a. Interpreters or bilingual providers and provider staff.

b. Contracts with interpreter services.

c. Use of telephone interpreter lines.

d. Sharing of language assistance materials and services with other providers.

e. Translated written information materials, including but not limited to, enrollment information and descriptions of available services and programs.

**Contract Terms and Conditions – Exhibit A  
Financial Alignment Contract****ARTICLE V. BILINGUAL AND LINGUISTIC PROGRAM SERVICES (Continued)**

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

**Contract Terms and Conditions – Exhibit A  
Financial Alignment Contract**

**ARTICLE V. BILINGUAL AND LINGUISTIC PROGRAM SERVICES (Continued)**

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

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 the California Department of Human Resources' (CalHR) rules and regulations.

In State:

- Mileage  
<http://www.calhr.ca.gov/employees/Pages/travel-personal-vehicle.aspx>
- Per Diem (meals and incidentals)  
<http://www.calhr.ca.gov/employees/Pages/travel-meals.aspx>
- Lodging  
<http://www.calhr.ca.gov/employees/Pages/travel-lodging-reimbursement.aspx>

Out of State:

- <http://www.calhr.ca.gov/employees/Pages/travel-out-of-state.aspx>

The Contractor is not prevented from using other funds not provided by CDA to pay any differences between CalHR rates and other rates the Contractor is obligated to pay. 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.)

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

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

B. Accountability for Funds

1. The Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from those for any other funds administered by the Contractor, and shall be kept in accordance with Generally Accepted Accounting

**Budget Detail, Payment Provisions, and Closeout – Exhibit B  
Financial Alignment Contract**

ARTICLE I. FUNDS (Continued)

Principles and Procedures and the Office of Management and Budget's Cost Principles.

2. 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):

- a. Financial Reporting
- b. Accounting Records
- c. Internal Control
- d. Budgetary Control
- e. Allowable Costs
- f. Source Documentation
- g. Cash Management

C. Unexpended Funds

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

D. Availability of Funds

1. It is understood between the parties that this Agreement may have been written before ascertaining the availability or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if this Agreement were executed after that determination was made.
2. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government and the Budget Act of the appropriate fiscal years for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions imposed by the Congress or the Legislature that may affect the provisions, terms, or funding of this Agreement in any manner.
3. Payment for performance by the Contractor is contingent upon appropriation by the Legislature or Congress for the purposes of this contract and approval of an itemized Financial Alignment Contract Budget (CDA 229 FA). 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 and Work Plan are received and approved by the State, and the Contractor has received an executed contract.

ARTICLE I. FUNDS (Continued)

4. Funding Reduction(s)

- a. If funding for any State fiscal year is reduced or deleted by the Department of Finance, Legislature, or Congress for the purpose of this program, the State shall have the option to either:
  - Terminate the Contractor pursuant to Exhibit D, Article XII, A.
  - 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; (2) some contracts may be reduced by a greater amount than others; and (3) 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. The Contractor may keep interest amounts earned on advances of federal funds up to \$100 per year for Local Government Agencies or \$250 for non-profit organizations for administrative expenses. Interest earned above the stated limit shall be remitted at least quarterly to the Department's Accounting Section. [45 CFR 92.21(i)] [45 CFR 74.22(l)]
2. Interest earned on advances of federal and non-federal funds shall be identified as non-match cash.
3. The Contractor may retain interest on non-federal funds if it reasonably demonstrates that such interest was earned on non-federal funds. If the Contractor fails to adequately demonstrate the source of the interest, then such interest will be considered earned on federal funds and shall be remitted, at least quarterly, to the Department's Accounting Section.
4. Nonprofit entities shall maintain advances of federal funds in interest bearing accounts, unless (a), (b), or (c) apply.
  - a. The recipient receives less than \$120,000 in federal awards per year.
  - b. The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on federal cash balances.
  - c. The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.

ARTICLE I. FUNDS (Continued)

F. One-Time-Only

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

ARTICLE II. BUDGET AND BUDGET REVISION

- A. The Contractor shall be compensated for expenses only as itemized in the approved Financial Alignment Contract Budget (CDA 229 FA), with the exception of line item transfers as noted in F.1.(a), below, and shall not be entitled to payment for these expenses until the Financial Alignment Contract Budget (CDA 229 FA) is reviewed and approved by the Department. The approved Financial Alignment Contract Budget is hereby incorporated by reference into this Agreement as a part of Exhibit B.
- B. The CDA 229 FA 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. Personnel Costs
  2. Fringe Benefits
  3. Contractual Costs, including consultants and subcontract contracts
  4. Equipment
  5. Supplies
  6. Travel
  7. Other costs (can include infrastructure, data collection, and data analysis costs)
  8. Indirect charges, in compliance with the Code of Federal Regulations. If requesting indirect costs in the budget, a copy of the indirect cost rate agreement is required.
- C. The original Financial Alignment Contract Budget (CDA 229 FA) is due to your Fiscal Team Specialist no later than 30 days from the date of the transmission of the Budget Display and Contract.
- D. The Contractor shall submit electronically a budget revision 30 days after receiving an amended Financial Alignment Contract Budget Display with changes in funding levels unless otherwise instructed by the Department.
- E. The Contractor shall ensure that the subcontractor shall submit a budget, which shall be incorporated by reference into the subcontract and will have, at a minimum, the categories listed in Section B, above.
- F. Line Item Transfers
1. The Contractor may transfer contract funds between line items under the following terms and conditions:
    - a. The Contractor shall submit a revised budget to the Department for any line item transfer of funds that is 10 percent or more of the total budget.



**ARTICLE II. BUDGET AND BUDGET REVISION (Continued)**

- b. 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.
- 2. The Contractor costs for AAA Administration are limited to ten percent of the total Financial Alignment Contract funding allocation. The maximum allowable AAA Administration will be identified on the Financial Alignment Contract Budget Display.
- G. In the event that programs are changed from DIRECT to CONTRACTED or CONTRACTED to DIRECT, the Contractor shall submit a revised budget to the Department prior to implementation of said change. An amendment to this Agreement shall be required in accordance with Exhibit D, Article XV.
- H. The final date to submit budget revisions is May 1 of the contract period unless otherwise specified by the Department. The Department will not accept any budget revision after the contract period has expired.

**ARTICLE III. PAYMENT**

- A. The Contractor shall prepare and submit a Financial Alignment Contract Report of Expenditures/Request for Funds (CDA 245 FA) by the 30<sup>th</sup> of each month to the CDA Fiscal Team in electronic format, using the calendar provided, unless otherwise specified by the Department.

**Monthly Contract Fiscal Reporting Due Dates**

RFF Month	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
RFF Due Date	5/30	6/30	7/30	8/30	9/30	10/30	11/30	12/30	1/30	2/28	3/30	4/30

Expenditure Month	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Expenditure Report Due Date	5/30	6/30	7/30	8/30	9/30	10/30	11/30	12/30	1/30	2/28	3/30	4/30

The table is a standard request for funds (RFF) and expenditure reporting schedule. If the effective date of this contract is not July 1, the Contractor's RFF and expenditure reporting will commence with the first month of the term of this contract period.

- B. During the contract period, the Department shall advance funds based on an analysis of current cash needs.

**ARTICLE IV. CLOSEOUT**

- A. The Financial Closeout Report (CDA 230 FA) and the Report of Property Purchased with Agreement Funds (CDA 32) must be submitted annually by the Contractor at the end of each State Fiscal Year, with the exception of the final Closeout report, which is due 30 days after the end of the contract period. Closeout reporting documents must be addressed to the CDA Fiscal Team.

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

**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, an approved Financial Alignment Contract Budget, and a Work Plan which are hereby incorporated by reference, and amendments; unless otherwise provided 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 (AAA) awarded funds under this Agreement and which is accountable to the State and/or federal government for use of these funds and is responsible for executing its provisions and services.
4. "Subcontractor" or "vendor" means the legal entity that receives funds from the Contractor to provide direct services identified in the 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.
7. "Program income" means revenue generated by the Contractor or subcontractor from contract-supported activities. Program income is:
  - a. Voluntary contributions received from a participant or responsible party as a result of the service(s)
  - b. Income from usage or rental fees of real or personal property acquired with funds provided under this Agreement
  - c. Royalties received on patents and copyrights from contract-supported activities
  - d. Proceeds from the sale of items fabricated under a contract agreement

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

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

8. "Data Universal Numbering System (DUNS) number" means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities.

**B. Resolution of Language Conflicts**

The terms and conditions of this federal Award and other funding sources have the following order of precedence if there is any conflict in what they require:

1. The Financial Alignment Grant Terms and Conditions
2. Other applicable Federal statutes and their implementing regulations
3. Older Californians Act provisions
4. Standard Agreement (Std. 213), all Exhibits and any amendments thereto
5. Any other documents incorporated herein by reference
6. Program memos and other guidance issued by the Department

**ARTICLE II. ASSURANCES**

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

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

**B. Subcontracts**

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

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

ARTICLE II. ASSURANCES (Continued)

C. Nondiscrimination

The Contractor shall comply with all federal statutes relating to nondiscrimination. These include those statutes and laws contained in the Contractor Certification Clauses (CCC307), which is hereby incorporated by reference. In addition, the Contractor shall comply with the following:

1. Equal Access to Federally-Funded Benefits, Programs and Activities

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

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

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

3. The Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. Sections 12101 et seq.).

4. The 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.

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

ARTICLE II. ASSURANCES (Continued)

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

H. Facility Construction or Repair

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

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

ARTICLE II. ASSURANCES (Continued)

I. Contracts in Excess of \$100,000

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

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

J. Debarment, Suspension, and Other Responsibility Matters

1. The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors: [45 CFR 92.35]
  - 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

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

ARTICLE II. ASSURANCES (Continued)

- 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
2. The Contractor shall report immediately to the Department in writing any incidents of alleged fraud and/or abuse by either the Contractor or sub-contractor.
3. The Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by the Department.
4. The Contractor agrees to timely execute any and all amendments to this Agreement or other required documentation relating to their subcontractors debarment/suspension status.

K. Agreement Authorization

1. If a public entity, the Contractor shall submit to the Department a copy of the resolution, order, or motion referencing this Agreement number authorizing execution of this Agreement. If a private nonprofit entity, the Contractor shall submit to the Department an authorization by the Board of Directors to execute this Agreement, referencing this Agreement number.
2. These documents must also identify the action taken.
3. Documentation in the form of a resolution, order, or motion by the Governing Board of the AAA 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 AAA 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.



**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

ARTICLE II. ASSURANCES (Continued)

M. DUNS Number and Related Information

1. The DUNS number must be provided to CDA prior to the execution of this Agreement.
2. The contractor must have complied with the federal requirement to keep DUNS number and related updates on the website at <http://fedgov.dnb.com/webform>.
3. The contractor shall review all DUNS information annually to ensure it is up to date.
4. If CDA cannot access the Contractor's DUNS information related to this federal subaward on the Federal Funding Accountability and Transparency Act Subaward Reporting System due to errors in the Contractor's data entry for their DUNS number, the Contractor must immediately update the information as required.

N. 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 this 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 this 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.

O. 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  
Financial Alignment Contract**

**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.
5. This certification is a prerequisite for making or entering into this transaction imposed by 31 USC 1352.
6. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**ARTICLE III. AGREEMENT**

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

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

**ARTICLE IV. COMMENCEMENT OF WORK**

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

**ARTICLE V. SUBCONTRACTS**

- A. The Contractor shall satisfy, settle, and resolve all administrative, programmatic, and fiscal aspects of the program(s), including issues that arise out of any subcontracts, and shall not delegate or contract these responsibilities to any other entity. This includes, but is not limited to, disputes, claims, protests of award, or other 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 for services beyond the ending date of this Agreement, unless all funding under this Agreement is appropriated without regard for fiscal year, and the Department has agreed in writing to permit the specific expenditure for a specified period of time.
- D. The Contractor shall have no authority to contract for, or on behalf of, or incur obligations on behalf of the State.
- E. Copies of subcontracts, Memorandums and/or Letters of Understanding shall be on file with the Contractor and shall be made available for review at the request of the Department.
- F. The Contractor shall monitor the insurance requirements of its subcontractors in accordance with Article XI, Section E of this exhibit.
- G. The Contractor shall require all its subcontractors to indemnify, defend, and save harmless the Contractor, its officers, agents, and employees from any and all claims and losses accruing to or resulting from any subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

## ARTICLE V. SUBCONTRACTS (Continued)

connection with any activities performed for which funds from this Agreement were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the subcontractor in the performance of this Agreement.

- H. The Contractor shall ensure that the subcontractor will complete all reporting and expenditure documents requested by the Department. These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by the Department.
- I. 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. (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, Subpart B—Audits, 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.

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

**ARTICLE VI. RECORDS**

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

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

**ARTICLE VII. PROPERTY**

- A. Unless otherwise provided for in this Article, property refers to all assets 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 reporting requirements:
1. Has a normal useful life of at least 1 year
  2. Has a unit acquisition cost of at least \$500 (a desktop or laptop setup, including all peripherals is considered a unit, if purchased as a unit)
  3. Is used to conduct business under this Agreement
- C. Additions, improvements, and betterments to assets meeting all of the conditions in Section B above must also be reported. 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.
- D. Intangibles are property that lack physical substance but give valuable rights to the owner. 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.
- E. The Contractor shall keep track of property purchased with CDA funds. The Contractor shall maintain and submit to the Department annually with the Closeout, in electronic form, a cumulative inventory of all 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 electronic version of the Report of Project Property Furnished/Purchased with

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

**ARTICLE VII. PROPERTY (Continued)**

Agreement Funds (CDA 32) to report property to the Department, unless otherwise directed by the Department.

The Contractor shall record the following information when property is acquired:

1. Date acquired.
  2. Item description (include model number).
  3. CDA tag number or other tag identifying it as CDA property.
  4. Serial number (if applicable).
  5. Purchase cost or other basis of valuation.
  6. Fund source.
- F. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
- G. Disposal of Property
1. Prior to disposal of any property purchased by the Contractor or the subcontractor with funds from this Agreement or any predecessor Agreement, the Contractor must obtain approval from the Department for all items with a unit cost of \$500 or more. 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 e-mail to the Department the electronic version of the Request to Dispose of Property (CDA 248). CDA will then instruct the AAA on disposition of the property. Once approval for disposal has been received from CDA, the item(s) shall be removed from the Contractor's inventory report.
  2. The Contractor must remove all confidential, sensitive, or personal information from CDA property prior to disposal, including removal or destruction of data on computing devices with digital memory and storage capacity. This includes, but is not limited to magnetic tapes, flash drives, personal computers, personal digital assistants (PDAs), cell or smart phones, multi-function printers, and laptops.
- H. The Contractor shall immediately investigate and within five (5) days fully document the loss, destruction, or theft of such property.

**Special Terms and Conditions - Exhibit D**  
**Financial Alignment Contract**

ARTICLE VII. PROPERTY (Continued)

- 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. The 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, or 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.
  - 2. Another Department-funded program.
- N. The Contractor may share use of the property and equipment or allow use by other programs, upon written approval of the Department. As a condition of the approval, the Department may require reimbursement under this Agreement for its use.
- O. The Contractor or subcontractor shall not use equipment or supplies acquired under this Agreement with federal and/or State monies for personal gain or to usurp the competitive advantage of a privately-owned business entity.
- P. If purchase of equipment is a reimbursable item, the equipment to be purchased will be specified in the budget.



## **Special Terms and Conditions - Exhibit D Financial Alignment Contract**

### **ARTICLE VII. PROPERTY (Continued)**

- 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, California State Auditor, 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 AND EVALUATION**

- A. Authorized State representatives shall have the right to monitor and evaluate the Contractor's administrative, fiscal and program performance pursuant to this Agreement. Said monitoring and evaluation may include, but is not limited to, administrative processes, policies and procurement, 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 and evaluation processes, which include making any Administrative program and fiscal staff available during any scheduled process.
- C. The Contractor shall monitor contracts, subcontracts or grant agreements to ensure compliance with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on each of its major programs.
- D. The Contractor is responsible for maintaining supporting documentation including financial and statistical records, contracts, subcontracts, or grant agreements monitoring reports, and all other pertinent records until an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by the Department.

### **ARTICLE X. AUDITS**

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

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Financial Alignment Contract**

ARTICLE X. AUDITS (Continued)

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

The copy shall 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, or 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.

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.

For purposes of reporting in the Schedule of Expenditures of Federal Awards in the audit, the federal grantor is the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services. The Catalog of Federal Domestic Assistance Number is 93.779. The pass-through grantor is CDA.

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

Contract resolution includes:

1. Ensuring that subcontractors expending \$500,000 or more, unless this amount is otherwise amended by future regulation, in Federal Awards during the subcontractor's fiscal year have met the audit requirements of OMB Circular A-133 as summarized in Section D, of this Article.

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**Financial Alignment Contract**

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, including match (cash and in-kind) reported to CDA to the amounts identified in the single audit or other type of audit if the subcontractor is not subject to the single audit requirements. For a subcontractor that is not required to have a single audit and did not obtain another type of audit, the reconciliation of expenditures reported to CDA must be accomplished through performing alternative procedures (e.g., expense verification reviews/monitoring assessments).
  4. When alternative procedures are used, the Contractor shall perform financial management system testing per existing federal requirements (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.
  5. The Contractor shall document system and expense testing to show an acceptable level of reliability, including a review of actual source documents.
  6. Determining whether the results of the reconciliations performed necessitate adjustment of the Contractor's own records.
- D. The Contractor shall ensure that subcontractor single audit reports meet OMB Circular A-133 requirements:
1. Performed timely – not less frequently than annually and a report submitted timely. The audit is required to be submitted within 30 days after receipt of the auditor's report or nine months after the end of the audit period, whichever occurs first.
  2. Properly procured – use procurement standards provided for in OMB Circular A-133 and provide maximum opportunities to small and minority audit firms.

**Special Terms and Conditions - Exhibit D**  
**Financial Alignment Contract**

ARTICLE X. AUDITS (Continued)

3. Performed in accordance with Generally Accepted Government Auditing Standards – shall be performed by an independent auditor and be organization-wide.
  4. All inclusive – includes an opinion (or disclaimer of opinion) of the financial statements; a report on internal control related to the financial statements and major program; an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements; and the schedule of findings and questioned costs.
  5. Performed in accordance with provisions applicable to this program as identified in OMB Circular A-133 Compliance Supplement.
- E. Requirements identified in Section D of this Article shall be included in contracts/agreements with the subcontractors. Further, the subcontractors shall be required to include in its contract with the independent auditor that the auditor will comply with all applicable audit requirements, the Department shall have access to all audit reports and supporting work papers, and the Department has the option to perform additional work, as needed.
- F. The Contractor shall prepare a summary worksheet of results from the contract resolutions performed of all subcontractors. The summary worksheet shall include, but not be limited to, contract amount; amount resolved; variances; whether an audit was relied upon or the Contractor performed an independent expense verification review of the subcontractor in making the determination; whether audit findings were issued; and, if applicable, issuance date of the management letter; and any communication or follow-up performed to resolve the findings.
- G. Unless prohibited by law, the cost of audits made in accordance with provisions of the Single Audit Act Amendments of 1996, are allowable charges to Federal Awards. The costs may be considered a direct cost, or an allocated indirect cost, as determined in accordance with provisions of applicable OMB cost principle circulars.
- H. The 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. The 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

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

**ARTICLE X. AUDITS (Continued)**

obtain a single audit. These costs must be charged as an Administration expense.

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

**ARTICLE XI. INSURANCE**

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

1. General liability of not less than \$1,000,000 per occurrence for bodily injury and property damage combined. Higher limits may be required by the Department in cases of higher than usual risks
2. Automobile liability including non-owned auto liability, of not less than \$1,000,000 for volunteers and paid employees providing services supported by this Agreement
3. If applicable, or unless otherwise amended by future regulation, contractors and subcontractors shall comply with the Public Utilities Commission (PUC) General Order No. 115-F which requires higher levels of insurance for charter-party carriers of passengers and is based on seating capacity as follows:
  - \$750,000 if seating capacity is under 8.
  - \$1,500,000 if seating capacity is 8 – 15.
  - \$5,000,000 if seating capacity is over 15.
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:

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

ARTICLE XI. INSURANCE (Continued)

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

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

**ARTICLE XII. TERMINATION**

**A. Termination Without Cause**

The Department may terminate performance of work under this Agreement, in whole or in part, without cause, 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. The parties agree that if the termination of the contract is due to a reduction or deletion of funding by the Department of Finance, Legislature or Congress, the Notice of Termination shall be effective 30 days from the delivery of the notice. The Contractor shall submit to the Department a Transition Plan as specified in Exhibit A. 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.

**B. Termination for Cause**

The Department may terminate, in whole or in part, 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 Contractor shall submit to the Department a Transition Plan as specified in Exhibit A. The grounds for termination for cause shall include, but are 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.

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ARTICLE XII. TERMINATION (Continued)

6. Delinquency in payment of taxes or payment of costs for performance of this Agreement in the ordinary course of business.
7. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the Contractor.
8. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income.
9. The commission of an act of bankruptcy.
10. Finding of debarment or suspension. [Article II J]
11. The Contractor's organizational structure has materially changed.
12. The Department determines that a Contractor may be considered a "high risk" agency as described in 45 CFR 92.12 for 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.

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.



**Special Terms and Conditions - Exhibit D  
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ARTICLE XII. TERMINATION (Continued)

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. The effective date for Termination with Cause or for funding reductions is 30 days and Termination without Cause is 90 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

In the event the Contractor no longer intends to provide services under this Agreement, the Contractor shall give the Department Notice of Intent to Terminate. Such notice shall be given in writing to the Department at least 180 days prior to the proposed termination date. Unless mutually agreed upon, the Contractor does not have the authority to terminate the Agreement. The notice of intent to terminate shall include the reason for such action and the anticipated last day of work. The Contractor shall submit a Transition Plan in accordance with Exhibit E of the CDA HICAP Fiscal Year 2013-14 Health Insurance Counseling and Advocacy Program Contract.

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.

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

**ARTICLE XV. AMENDMENTS, REVISIONS OR MODIFICATIONS**

- A. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed and approved through the State amendment process in accordance with the State Contract Manual. 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, provided the Contractor retains receipt, and shall be communicated as of actual receipt.
- B. Any notice given to CDA for the Contractor's change of legal name, main address, or name of Director shall be addressed to the Director of the Department on the Contractor's letterhead.
- C. All other notices with the exception of those identified in Article VII. B. shall be addressed to the California Department of Aging, AAA Based Teams, 1300 National Drive, Suite 200, Sacramento, California, 95834. Notices mailed to the Contractor shall be to the address indicated on the coversheet of this Agreement.
- D. Either party may change its address by written notice to the other party in accordance with this Article.

**ARTICLE XVII. DEPARTMENT CONTACT**

- A. The name of the Department's contact to request revisions, waivers, or modifications affecting this Agreement, will be provided by the State to the Contractor upon full execution of this Agreement.
- B. The Contractor shall, upon request from CDA, submit the name of its Agency Contract Representative (ACR) for this Agreement by submitting an Agency Contract Representative form to 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.

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

**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 the State Administrative Manual, Section 5310; 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 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, thumb/flash drives, and portable hard drives.

**C. Disclosure**

1. The Contractor shall ensure that personal, sensitive and confidential information is protected from inappropriate or unauthorized access or disclosure in accordance with applicable laws, regulations and State policies. The requirement to protect information shall remain in force until superseded by laws, regulations or policies.
2. The Contractor shall protect from unauthorized disclosure names and other identifying information, concerning persons receiving services pursuant to this Agreement, except for statistical information not identifying any participant.
3. "Identifying information" shall include, but not be limited to, name, identifying number, social security number, state driver's license or state identification number, financial account numbers, symbol or other identifying characteristic assigned to the individual, such as finger or voice print or a photograph.

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

ARTICLE XVIII. INFORMATION, INTEGRITY, AND SECURITY (Continued)

4. The Contractor shall not use the identifying information in paragraph 3 above 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. The Contractor's employees, subcontractors, and volunteers must complete the required Security Awareness Training module located at [www.aging.ca.gov](http://www.aging.ca.gov) within 30 days of the start date of the Contract/Agreement or within 30 days of the start date of any new employee, subcontractor or volunteer. The Contractor must maintain certificates of completion on file and provide them to CDA upon request. Training may be provided on an individual basis or in groups. A sign-in sheet is acceptable documentation for group training in lieu of individual certificates. If internet access is not available, a hardcopy of the training module may be provided to employees and/or volunteers for their completion.
2. The 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.

**Special Terms and Conditions - Exhibit D**  
**Financial Alignment Contract**

ARTICLE XVIII. INFORMATION, INTEGRITY, AND SECURITY (Continued)

E. Health Insurance Portability and Accountability Act (HIPAA)

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

F. Contractor Confidentiality Statement

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

G. Security Incident Reporting

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

H. Notification of Security Breach to Data Subjects

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

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

**ARTICLE XVIII. INFORMATION, INTEGRITY, AND SECURITY (Continued)**

**I. Software Maintenance**

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

**J. Electronic Backups**

The Contractor shall ensure that all electronic information is protected by performing regular backup of automated files and databases and ensure the availability of information assets for continued business.

**K. Provisions of this Article**

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

**ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA**

**A. Copyrights**

1. If any material funded by this Agreement is subject to copyright, the State reserves the right to copyright such material and the Contractor agrees not to copyright such material, except as set forth in subdivisions (2) and (3) of this section.
2. The Contractor may request permission to copyright material by writing to the Director of the Department. The Director shall consent to or give the reason for denial to the Contractor in writing within 60 days of receipt of the request.
3. If the material is copyrighted with the consent of the Department, the State reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, prepare derivative works, publish, distribute and use such materials, in whole or in part, and to authorize others to do so, provided written credit is given the author.
4. The Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this contract for the acquisition, operation, or maintenance of computer software in violation of copyright laws.

**Special Terms and Conditions - Exhibit D  
Financial Alignment Contract**

**ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA (Continued)**

**B. Rights in Data**

1. The Contractor shall not publish or transfer any materials, as defined in item 2 below, produced or resulting from activities supported by this Agreement without the express written consent of the Director of the Department. Consent shall be given or the reasons for denial shall be given and any conditions under which it is given or denied within 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 AAAs 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 by the Contractor and financed with funds under this Agreement shall:
  - a. Include an acknowledgement that "This publication has been created or produced by [contractor/subcontractor] with financial assistance, in whole or in part, through a grant from the Centers for Medicare & Medicaid Services, the Federal Medicare agency, and the California Department of Aging."
  - b. Use the SHIP logo and tagline on all publications.
  - c. Give the name of the entity, the address, and telephone number at which the supporting data is available.

**Special Terms and Conditions - Exhibit D**  
**Financial Alignment Contract**

ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA (Continued)

- d. Include a statement that "The conclusions and opinions expressed may not be those of the California Department of Aging or the Centers for Medicare & Medicaid Services, the Federal Medicare agency, and that the publication may not be based upon or inclusive of all raw data."
5. CMS shall have royalty-free, nonexclusive and irrevocable rights to reproduce, publish, or otherwise use and authorize others to use material, systems, or other items applied, developed, refined or enhanced under this Agreement for Federal government purposes.





ORANGE COUNTY  
**OC Community Resources**  
*Our Community. Our Commitment.*

**Subject: OC Community Resources  
Contract Reimbursement Policy**

Effective: July 1, 2010  
Revised: December 18, 2013

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**PURPOSE:**

This policy contains updated fiscal documentation requirements for contract reimbursement for OC Community Services. The procedures provide instructions for submitting reimbursement demand letter or invoice.

**EFFECTIVE DATE:**

**July 1, 2010**

**REVISION DATE:**

**December 18, 2013**

**REFERENCES:**

Executed Board of Supervisors approved contract  
Budget included in contract or presented as an exhibit  
OMB Circular A-21 Cost Principles for Educational Institutions  
OMB Circular A-87 Cost Principles for State, Local, and Indian Tribal Governments  
OMB Circular A-122 Cost Principles for Non-Profit Organizations  
48 CFR Part 31 Contract Cost Principles and Procedures  
24 CFR Parts 85, 570.502, 570.201, 576.21, 576.51 and 576.61: For Housing & Community Development and Homeless Prevention Contracts only.

**BACKGROUND:**

The executed Board of Supervisors approved contract is the authorization for all aspects of payment, including the maximum amount to be paid, the payee, and the scope of services and work. Payments are made in strict accordance with the contract terms. Allowable costs are identified in referenced OMB Circulars and Code of Federal Regulations (CFR).

**ATTACHMENTS:**

Reimbursement Policy Status Form (RPS-1)

**POLICY:**

Contractor is responsible for the submission of accurate claims. This reimbursement policy is intended to ensure that the Contractor is reimbursed based on the code or codes that correctly describe the services provided. This information is intended to serve only as a general reference resource regarding OC Community Services' reimbursement policy for the services described and is not intended to address every aspect of a reimbursement situation. Accordingly, OC Community Services may use reasonable discretion in interpreting and applying this policy to services provided in a particular case. Other factors affecting reimbursement may supplement, modify or, in some cases, supersede this policy. These factors may include, but are not limited to: legislative mandates and County directives. OC Community Services may modify this reimbursement policy at any time by publishing a new version of the policy. However, the information presented in this policy is accurate and current as of the date of publication.

Cost incurred by contractor must be substantiated and incurred during the contract period. Total of all reimbursements cannot exceed the amount of the contract. Cost must be allowable under applicable OMB Circular or CFR. All supporting documentation for reimbursement must be submitted with demand letter or invoice. If contract requires matching

contribution, documentation substantiating contribution match must be submitted with demand letter or invoice.

At any time, based on County's business needs and/or Contractor's performance, the County may designate Contractor to submit abbreviated or comprehensive documentation, as identified in the respective sections. Upon designation, Contractor will be notified, in writing via Reimbursement Policy Status Form, of which requirements are in full force. When Contractor is required to submit comprehensive documentation, in addition to the items identified in the Abbreviated Documentation Requirements Section, Contractor must also provide the documentation identified in the Comprehensive Documentation Requirements Section.

### **PROCEDURES:**

#### **Abbreviated Documentation Requirements**

Compile and submit:

1. Supporting documentation includes, but is not limited to:
  - a. General ledger/expense transaction report
  - b. Payroll register or labor distribution report
  - c. Payroll allocation plan
  - d. Personnel Documentation
  - e. Benefit plan and calculation of benefit
  - f. Employer-employee contract for non-customary benefits (if applicable)
  - g. Pre-approval documentation for equipment purchases equal to or greater than \$5,000
2. The following is required with the first month's invoice only:
  - a. Cost allocation plan for rent, utilities, etc.
  - b. Indirect rate approved by cognizant agency (if applicable)
3. Summary of leveraged resources (if applicable)
4. Demand letters must contain the following certification (if required by Contract):
 

***"I certify under the penalty of perjury that this claim is true and correct and that the requested payments have been made. I also certify that this claim agrees with our official payroll and financial records and that these amounts have not been, or will not be claimed from any other funding source"***
5. Grantee Performance Report (if required by Contract)
6. Supporting documentation shall be on single-sided sheets
7. Please redact employees' Social Security Number from payroll reports
8. Demand letter or invoice, along with supporting documentation shall be submitted to:
 

OC Community Resources Accounting  
1770 N. Broadway, 4<sup>th</sup> Floor  
Santa Ana, CA 92706

#### **Comprehensive Documentation Requirements**

In addition to abbreviated documentation, compile and submit:

9. Purchase orders, invoices, and receipts
10. Cashed checks
11. Check register
12. Consultant/sub-contractor invoices (with description of services)
13. Travel expense documentation: mileage reimbursement, hotel bill, meal reimbursement

### **ACTION:**

**Distribute this policy to all appropriate staff**

### **INQUIRIES:**

Inquiries may be directed to the following:

- Win Swe: 714-480-6532 or [win.swe@occr.ocgov.com](mailto:win.swe@occr.ocgov.com)
- Jenny Cao: 714-480-6531 or [jenny.cao@occr.ocgov.com](mailto:jenny.cao@occr.ocgov.com)

**Attachment 1****County of Orange Child Support Enforcement  
Certification Requirements**

In order to comply with child support enforcement requirements of the County of Orange, within ten (10) days of award of CONTRACT, the successful SUBRECIPIENT must furnish to the CONTRACT Administrator, Purchasing Agent or the agency/department Deputy Purchasing Agent:

1. In the case of an individual SUBRECIPIENT, his/her name, date of birth, Social Security number, and residence address;
2. In the case of a SUBRECIPIENT doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity; A certification that the SUBRECIPIENT has fully complied with all applicable federal and state reporting requirements regarding its employees; and
3. A certification that the SUBRECIPIENT has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

The certifications will be stated as follows:

*"I certify that \_\_\_\_\_ is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of CONTRACT \_\_\_\_\_ with the County of Orange. I understand that failure to comply shall constitute a material breach of the CONTRACT and that failure to cure such breach within ten (10) calendar days of notice from the COUNTY shall constitute grounds for termination of the CONTRACT.*

It is expressly understood that this data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders and for no other purposes and will be held confidential by those agencies.

Failure of the SUBRECIPIENT to timely submit the data and/or certifications required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the CONTRACT. Failure to cure such breach within ten (10) calendar days of notice from the COUNTY shall constitute grounds for termination of the CONTRACT.

The successful SUBRECIPIENT may use the forms supplied herein, to furnish required information listed above.

**County of Orange Child Support Enforcement**  
**Certification Requirements**  
**(blank form)**

- A. In the case of an individual SUBRECIPIENT, his/her name, date of birth, Social Security number, and residence address:

Name: \_\_\_\_\_

D.O.B: \_\_\_\_\_

Social Security No: \_\_\_\_\_

Residence Address: \_\_\_\_\_

\_\_\_\_\_

- B. In the case of a SUBRECIPIENT doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of ten (10) percent or more in the contracting entity:

Name: \_\_\_\_\_

D.O.B: \_\_\_\_\_

Social Security No: \_\_\_\_\_

Residence Address: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

D.O.B: \_\_\_\_\_

Social Security No: \_\_\_\_\_

Residence Address: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

D.O.B: \_\_\_\_\_

Social Security No: \_\_\_\_\_

Residence Address: \_\_\_\_\_

\_\_\_\_\_

(Additional sheets may be used if necessary)

- C. A certification that the SUBRECIPIENT has fully complied with all applicable federal and state reporting requirements regarding its employees; and
- D. A certification that the SUBRECIPIENT has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

*"I certify that \_\_\_\_\_ is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of CONTRACT \_\_\_\_\_ with the County of Orange. I understand that failure to comply shall constitute a material breach of the CONTRACT and that failure to cure such breach within ten (10) calendar days of notice from the COUNTY shall constitute grounds for termination of the CONTRACT.*

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Authorized Signature

Print Name

Title

**Attachment 2**

**EDD INDEPENDENT CONTRACTOR REPORTING REQUIREMENTS**

Effective January 1, 2001, the County of Orange is required to file federal Form 1099-Misc for services received from a "service provider" to whom the County pays \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term "service provider" is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as "an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a Contract for services performed for that service recipient within or without the state." The term is further defined by the California Employment Development Department to refer specifically to independent contractors. An independent Contractor is defined as "an individual who is not an employee of the....government entity for California purposes and who receives compensation or executes a Contract for services performed for that....government entity either in or outside of California."

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at [www.edd.ca.gov/txicr.htm](http://www.edd.ca.gov/txicr.htm).

To comply with the reporting requirements, County procedures for contracting with independent contractors mandate that the following information be completed and forwarded to the contracting agency/department immediately upon request:

- First name, middle initial and last name
- Social Security Number
- Address
- Start and expiration dates of Contract
- Amount of Contract

First Name & Middle Initial	Last Name
Social Security No.	
Contract Number	\$ Dollar Value of Contract
Start Date	Expiration Date