



**DEPARTMENT OF MENTAL HEALTH**  
hope. recovery. wellbeing.

**LISA H. WONG, Psy.D.**  
Director

**Curley L. Bonds, M.D.**  
Chief Medical Officer

**Connie D. Draxler, M.P.A.**  
Acting Chief Deputy Director

December 03, 2024

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

29 December 3, 2024

EDWARD YEN  
EXECUTIVE OFFICER

**ADOPT A RESOLUTION TO APPROVE A NEW AGREEMENT WITH  
THE STATE OF CALIFORNIA, DEPARTMENT OF AGING, TO FUND  
PUBLIC PATIENT REPRESENTATIVE SERVICES  
(ALL SUPERVISORIAL DISTRICTS)  
(3 VOTES)**

**SUBJECT**

Request adoption of a resolution approving a new agreement with the State of California, Department of Aging, to fund the delivery of public patient representative services for vulnerable seniors across Los Angeles, San Bernardino, and Riverside counties.

**IT IS RECOMMENDED THAT THE BOARD:**

1. Adopt and instruct the Chair of your Board to sign and execute a resolution (Attachment I), authorizing the Director of Mental Health (Director), or designee, to sign and execute the Agreement (No. OP-2425-02), substantially similar to Attachment II, with the State of California, Department of Aging (CDA), to accept funds not to exceed \$2,250,000 to enable the Department of Mental Health's (DMH) Office of Public Guardian (PG) to continue providing public patient representative services. The term of the Agreement will be effective January 1, 2025 through December 31, 2027.
2. Delegate authority to the Director, or designee, to prepare, sign, and execute future amendments to the Agreement as applicable to: 1) extend the term; 2) revise and/or accept additional funds; 3) revise terms and conditions, add, delete, or modify Agreement language or other items, including the Scope of Work (SOW); 4) allow for the rollover of unspent funds; and 5) reflect federal, State, and County regulatory and/or policy changes, subject to prior review and approval as to form by County Counsel and notification to your Board and the Chief Executive Office.

## **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

DMH is committed to ensuring that long-term care residents at skilled nursing facilities (SNF) have access to public patient representative services, as their overall needs (i.e., physical, mental health, and personal needs) may be complex and intersect with different social and economic conditions they experience. Executing this Agreement with the State allows DMH to continue to provide services to seniors who lack the capacity to make health care decisions and have no legal surrogate authorized to make decisions on their behalf.

Board adoption of the resolution and approval of Recommendation 1 will allow DMH to execute a new agreement with the CDA to continue providing public patient representative services.

Board approval of Recommendation 2 will allow DMH to amend the Agreement; extend the term; revise the language, including the SOW; revise the funding amount; and reflect federal, State, and County regulatory and/or policy changes.

## **Implementation of Strategic Plan Goals**

These recommended actions are consistent with the County's Strategic Plan Goals, North Star 1, Focus Area Goal A., Make Investments that Transform Lives, Healthy Individuals and Families.

## **FISCAL IMPACT/FINANCING**

The total maximum amount of the Agreement is \$2,250,000 to fund associated operating costs. The Agreement is effective January 1, 2025 through December 31, 2027.

Sufficient appropriation is included in DMH's Fiscal Year 2024-25 Budget. Funding for future fiscal years will be requested through DMH's annual budget process.

There is no net County cost impact associated with the recommended actions.

## **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Under California Health and Safety Code, Section 1418.8, SNFs may convene an interdisciplinary team to make medical decisions for residents who lack capacity and have no legal surrogate. These teams include the resident's physician, a registered nurse responsible for the resident's care, and other appropriate staff. Effective January 27, 2023, SNFs are required to include a public patient representative when they convene an interdisciplinary team.

The current agreement for these services expires December 31, 2024, but the State has issued a new agreement funding a continuation of these services. Through this Agreement, DMH will continue to provide the Public Patient Representative Services Program (Program) utilizing the four Deputy Public Guardians (DPG) hired through the existing agreement. Prior to the implementation of the Program, DPGs investigated referrals on individuals who appeared unable to provide for their basic needs of food, clothing, or shelter; may have been victims of elder abuse; or those who may have lacked the capacity to give informed consent for their medical care. Under the Program, DPGs have the resources to assist seniors as necessary. Since the implementation of the Program, DPGs

have participated in interdisciplinary team meetings, have provided outreach to facilities, and registered at 445 facilities across the counties of Los Angeles, San Bernardino, and Riverside.

California Welfare and Institutions Code Section 9275 requires that the assigned DPG is responsible for conducting interviews with the senior; reviewing medical and clinical records; participating in the interdisciplinary team review of the proposed interventions and articulating the senior's treatment preferences; reporting any abuse or neglect; and referring the senior to any necessary legal services.

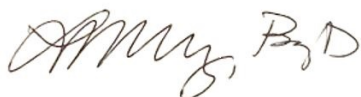
Under Article XIII B, Section 6 of the California Constitution, whenever the legislature or any State agency mandates a new program or higher level of service on any local government, the State will provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service. This is a State mandated program; therefore, the State has the obligation to provide ongoing funding. If the State terminates this Program/Agreement, DMH is no longer required to provide these services; however, DMH will be able to absorb the four positions within PG using other funding sources, if necessary.

Attachment II, Agreement No. OP-2425-02, has been approved as to form by County Counsel. The Agreement contains both standard and special State terms and conditions.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Board approval of the recommended actions will enable DMH to continue addressing and reducing disparities for a highly vulnerable population by acting in the senior's best interest when they are unable to communicate their needs/wants due to a medical or mental health condition.

Respectfully submitted,



LISA H. WONG, Psy.D.

Director

LHW:RH:KN:  
SK:RLR:MR:atm


Enclosures

c: Executive Office, Board of Supervisors  
Chief Executive Office  
County Counsel

**RESOLUTION OF  
THE BOARD OF SUPERVISORS OF  
COUNTY OF LOS ANGELES  
STATE OF CALIFORNIA**

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors (Board) of the County of Los Angeles (County) does hereby approve and authorize the Director Department of Mental Health (Director) or designee to sign the Agreement No. OP-2425-02 entered into by and between the County and the State of California, Department of Aging. It is further resolved that the Board approves and authorizes the Director, or designee, to sign future Amendments or modifications to the Agreement No. OP-2425-02.

EDWARD YEN,  
Executive Officer-Board of Supervisors of  
the County of Los Angeles

By   
Chair, Board of Supervisors

By  Deputy



APPROVED AS TO FORM:  
DAWYN R. HARRISON,  
COUNTY COUNSEL  
OFFICE OF THE COUNTY COUNSEL

By   
Rachel Kleinberg  
Senior Deputy County Counsel

## EXHIBIT A SCOPE OF WORK

### 1. CONTRACTED PARTIES:

County of Los Angeles Department of Mental Health, hereafter referred to as Contractor, through its Office of the Public Guardian, agrees to provide public patient representative services (as defined in Section 6) to the Department of Aging (CDA), pursuant to the terms and conditions of the Agreement.

### 2. SERVICE LOCATIONS:

The services shall be performed at the meeting site, or remotely when appropriate and agreed to by CDA. Locations will be coordinated by the Project Coordinators.

### 3. SERVICE HOURS:

The services shall be provided on an as needed basis, Monday through Friday, during normal business hours, excluding state holidays.

### 4. PROJECT COORDINATORS:

A. The project coordinators during the term of this Agreement shall be:

	<b>California Department of Aging</b>	<b>County of Los Angeles Department of Mental Health</b>
<b>Section:</b>	Office of the Long-Term Care Patient Representative (OLT CPR)	Office of the Public Guardian
<b>Attention:</b>	Susan Rodrigues	Luis Leyva
<b>Title:</b>	Assistant Deputy Director	Acting Deputy Director
<b>Address:</b>	2880 Gateway Oaks Drive, Suite 200 Sacramento, CA 95833	510 South Vermont Avenue, 19th Floor Los Angeles, CA 90020
<b>Phone:</b>	(916) 419-7551	(213) 974-0407
<b>Email:</b>	<a href="mailto:susan.rodrigues@aging.ca.gov">susan.rodrigues@aging.ca.gov</a>	<a href="mailto:lleyva@dmh.lacounty.gov">lleyva@dmh.lacounty.gov</a>

B. Direct all Agreement inquiries to:

	<b>California Department of Aging</b>	<b>County of Los Angeles Department of Mental Health</b>
<b>Section:</b>	Office of the Long-Term Care Patient Representative (OLT CPR)	Contracts Development and Administration Division (CDAD)
<b>Attention:</b>	Brisha Howe	Stella Krikorian
<b>Title:</b>	Staff Services Analyst	Division Manager of Contracts
<b>Address:</b>	2880 Gateway Oaks Drive, Suite 200 Sacramento, CA 95833	510 South Vermont Avenue, 20th Floor Los Angeles, CA 90020
<b>Phone:</b>	(916) 283-7586	(213) 943-9146
<b>Email:</b>	<a href="mailto:brisha.howe@aging.ca.gov">brisha.howe@aging.ca.gov</a>	<a href="mailto:skrikorian@dmh.lacounty.gov">skrikorian@dmh.lacounty.gov</a>

Either party may make changes to the contact names or information above by giving written notice to the other party. Said changes shall not require an amendment to this Agreement.

**5. SUMMARY OF WORK TO BE PERFORMED:**

The Contractor shall provide administrative and oversight services for local public patient representatives.

**6. CONTRACTOR RESPONSIBILITIES:**

A. The Contractor (Service Provider) shall:

- 1) Receive written or electronic requests for public patient representatives pursuant to Health and Safety Code Section 1418.8 and assign accordingly using the California Patient Representative Information System (CAPRIS).
- 2) Recruit local public patient representatives to perform services as outlined in Welfare and Institutions Code Section 9275.
- 3) Ensure public patient representatives can communicate successfully with those long-term care residents who speak diverse languages and come from diverse cultures.
- 4) Conduct training for local public patient representatives. Public patient representatives shall be trained to represent both urban and rural residents of skilled nursing and intermediate care facilities, including residents who are socially disadvantaged, such as people who were formerly homeless or incarcerated.

- 5) Ensure that public patient representatives meet criminal background requirements. CDA will pay all associated costs.
  - 6) Establish and maintain networks and working relationships with stakeholders.
  - 7) Provide additional data not compiled by CAPRIS to the State on an as-needed basis.
- B. Contractor shall procure and keep in full force and effect during the term of this Agreement all permits, registrations and licenses necessary to accomplish the work specified in this Agreement and shall give all notices necessary and incident to the lawful prosecution of the work. Contractor shall provide proof of any such license(s) permits(s), and certificate(s) upon request by the CDA. Contractor agrees that failure to provide evidence of licensing, permits, or certifications shall constitute a material breach for which the CDA may terminate this Agreement with cause.
- C. Contractor shall provide services as outlined in this Agreement. Contractor shall be responsible to fulfill the requirements of the Agreement and shall incur expenses at its own risk and invest sufficient time and capital to fulfill the obligations contained herein.
- D. Contractor shall keep informed of, observe, comply with, and cause its agents and employees to observe and to comply with all prevailing Federal, State, and local laws, and rules and regulations made pursuant to said Federal, State, and local laws, which in any way affect the conduct of the work of this Agreement. If any conflict arises between provisions of the plans and specifications and any such law above referred to, then the Contractor shall immediately notify the State in writing.
- E. The CDA may terminate the Agreement pursuant to section 7 of Exhibit C if the Contractor fails to comply with a Federal, State or local law and the noncompliance, based on the facts and circumstances, would constitute a material breach of this Agreement under California law.

## **7. REPRESENTATIVES RESPONSIBILITIES**

- A. Conduct a review to confirm that all criteria are met for an interdisciplinary team to convene for a resident and for the assignment of a patient representative by the program, as required by Health and Safety Code Section 1418.8.
- B. Meet and, if possible, interview the resident, and any known friends and family members prior to an interdisciplinary team meeting.
- C. Review the resident's medical and clinical records.

- D. Review relevant facility policies and procedures.
- E. Participate in the interdisciplinary team review for the proposed intervention, considering the factors required by Health and Safety Code section 1418.8, including the risks and benefits of the proposed intervention and any alternatives, and consider whether the proposed intervention is either consistent with the resident's preferences or a best approximation of preferences, if known, or whether the proposed intervention appears consistent with the best interests of the resident.
- F. Articulate the resident's preferences, if known, or best approximation of preferences.
- G. Identify and report any concerns regarding abuse and neglect of the resident to the Office of the Long-Term Care Ombudsman, the State Department of Public Health, and other appropriate organizations or agencies.
- H. Refer a resident who seeks judicial review pursuant to Health and Safety Code section 1418.8 to appropriate legal services identified by OLTCP. Local public patient representatives and OLTCP shall not provide legal representation or advice to residents.
- I. Submit additional data not collected by CAPRIS as outlined in Health and Safety section 1418.8 to CDA., in compliance with Exhibit G and any other security/privacy requirements.
- J. Shall not participate in an interdisciplinary team review of a decision that would "directly and inexorably lead to death" as set forth in Welfare and Institutions Code section 9270 (a).

## 8. CDA RESPONSIBILITIES

- A. OLTCP shall:
  - 1) Oversee the statewide provision of public patient representative services and Contractor's participation in interdisciplinary team reviews.
  - 2) Conduct public patient representative training pursuant to California Welfare and Institution Code 9265(a).
  - 3) Conduct regular program monitoring and compliance reviews.

## 9. AMENDMENTS

- A. The parties reserve the right to amend this Agreement to clarify terms or add languages or other items to accomplish the work, if necessary. This right to amend is in addition to the right to amend for other reasons contained in this



Agreement or noted in the solicitation that resulted in this Agreement, if applicable. Any amendment shall be in writing and signed by both parties and be approved by the Department of General Services if such approval is required.

- B. The CDA reserves the right to amend this Agreement for up to an additional year or to increase funding within this Agreement. Should the Parties amend this Agreement to extend the term, the proposed rates or prices must remain the same. All terms and conditions will remain the same unless changes are mutually agreed upon by the Contractor and the CDA and incorporated in writing into the amendment. All agreement amendments are subject to satisfactory performance and funding availability. Agreement amendments will not take effect and additional work will not begin until the Contractor has received a copy of the final Agreement Amendment that has been signed by the CDA Procurement Contract Officer or designee.

**EXHIBIT B  
BUDGET DETAIL AND PAYMENT PROVISIONS**

**1. INVOICING AND PAYMENT**

- A. Contractor shall submit all invoices not more frequently than monthly in arrears.
- B. For services satisfactorily rendered, and upon receipt and approval of invoices submitted as described herein, CDA agrees to compensate the Contractor for actual expenditures incurred, in accordance with the rates specified in section 5, Budget Detail.
- C. CDA is not responsible for services performed by the Contractor outside of this agreement, nor for services performed other than as outlined in Exhibit A, Scope of Work.
- D. CDA makes no guarantee, either written or implied, as to the actual amount of funds that will be expended under this Agreement.

**2. BUDGET CONTINGENCY CLAUSE**

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State or offer an agreement amendment to Contractor to reflect the reduced amount.

**3. PROMPT PAYMENT CLAUSE:**

Payment will be made in accordance with, and within the time specified in, Government Code section 927, et seq.

**4. BUDGET DETAIL:**

- A. At the sole discretion of CDA and for the purposes of accounting, CDA may adjust the total proposed expenditure for each fiscal year as needed. In no event will this change the contract price for the services actually rendered.

**B. Budget Detail**

- 1) The Contractor shall be compensated for expenses only as itemized in the approved Budget except for line-item budget transfers as noted in this Exhibit and shall not be entitled to payment for these expenses until this Agreement is approved and executed by CDA. The approved Budget is hereby incorporated by reference into this Agreement as a part of Exhibit B.
- 2) The Contractor's Budget shall include, at a minimum, the following items when reimbursable under this Agreement:
  - a) Personnel Costs - monthly, weekly, or hourly rates, as appropriate and personnel classifications together with the percentage of time to be charged to this Agreement.
  - b) Fringe Benefits.
  - c) Contractual Costs – subcontract cost detail.
  - d) Indirect Costs.
  - e) Rent.
  - f) Supplies.
  - g) Equipment - detailed descriptions and unit costs.
  - h) In State Travel – mileage reimbursement rate, lodging, per diem and other costs.
  - i) Other Costs - a detailed list of other operating expenses

**5. INSTRUCTIONS TO CONTRACTOR:**

The State shall reimburse Office of the Long-Term Care Patient Representative funding that has been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement. The following applies to all funding within this Agreement:

- A. The Contractor shall submit monthly expenditures in an electronic format, utilizing the CDA online Local Finance Reporting System, no later than the last business day of each month unless otherwise specified by CDA, reporting costs and funding for the month prior.
- B. Payments will be made to reimburse monthly expenditures reported. CDA shall process and approve reported expenditures that are based upon actual, not estimated expenditures. CDA shall notify the Contractor of any disputed expenditures.

- C. The Contractor shall submit timely expenditures to CDA. Late expenditures may lead to a delay in payment until the following month.
- D. Upon written request by CDA, Contractor shall submit additional documentation or justification to support the reported expenditure.
- E. Contractor shall be charged \$75 per program funding source(s) for expedited payments to recover the fees charged by the State Controller's Office. CDA may waive the fees on a case-by-case basis as appropriate.
- F. Expedite Fees
  - 1) If the contract is executed late to no fault of CDA then the contractor may be liable for the incurred processing fees.
  - 2) If the contract is executed late due to CDA's handling, then CDA shall cover the incurred processing fees.
- G. The Contractor shall ensure, to the extent feasible, that all budgeted funds are expended by the expiration of this Agreement.

## **6. CLOSEOUT**

- A. Separate Financial Closeout Reports for Office of the Long-Term Care Patient Representative and the Program Property Inventory Certification (CDA 9024) shall be submitted when either the total contract allocation has been expended, or 30 days after the expiration of this Agreement, whichever is earlier.
- B. Final expenditures must be reported to CDA in accordance with the Budget Display in Exhibit B. If the expenditures reported by the Contractor exceed the advanced amount, CDA will reimburse the difference to the Contractor up to the contract amount. If the expenditures reported by the Contractor are less than the advanced amount, CDA will invoice the Contractor for the unspent funds.
- C. The payment on the closeout invoice is due immediately upon receipt or no later than 30 days from the date on the invoice.

ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS

A. General Definitions

1. Agreement or Contract: The Standard Agreement (Std. 213), Exhibits A, B, C, and D, an approved Budget Display as identified in Exhibit B, and if applicable, a Work Plan or Budget Summary, which are hereby incorporated by reference, amendments, and any other documents incorporated by reference, unless otherwise provided for in this Article.
2. Allocation: The process of assigning a cost, or a group of costs, to one or more cost objective(s), in reasonable proportion to the benefit provided or other equitable relationship. The process may entail assigning a cost(s) directly to a final cost objective or through one or more intermediate cost objectives. (2 CFR 200.1 and 45 CFR 75.2)
3. Cal. Civ. Code: California Civil Code (CIV)
4. Cal. Gov. Code: California Government Code (GC)
5. Cal. Pub. Con. Code: California Public Contract Code (PCC)
6. CCR: California Code of Regulations.
7. CFR: Code of Federal Regulations.
8. Contractor: The entity awarded funds under this Agreement who is accountable to the State and/or federal government for use of these funds and is responsible for executing the provisions for services provided under this Agreement.
9. Disallowed Costs: Those charges determined to be unallowable, in accordance with the applicable Federal statutes, regulations, or the terms and conditions of the Federal award. (2 CFR 200.1 and 45 CFR 75.2)
10. HHS: United States Department of Health and Human Services
11. OAA: Older Americans Act
12. OCA: Older Californians Act
13. OMB: Federal Office of Management and Budget
14. Questioned Costs: A cost that is questioned by an auditor because of an audit finding which resulted from a violation or possible violation of statute, regulation,

or the terms and conditions of a Federal award, including for funds used to match Federal funds; where the costs, at the time of the audit, are not supported by adequate documentation; or where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances. (2 CFR 200.84 and 45 CFR 75.2).

15. Recoverable cost: The state and federal share of the questioned cost .
16. Reimbursable item: Also known as “allowable cost” and “compensable item.”
17. State and Department: The State of California and the California Department of Aging (CDA) interchangeably.
18. Subcontract: Any form of legal agreement between the Contractor and the Subcontractor, including an agreement that the Contractor or Subcontractor would consider to be a contract, including vendor type agreements for providing goods or services under this Agreement.
19. Subcontractor: The legal entity that receives funds from the Contractor to carry out part of a federal award identified in this Agreement.
20. UEI: Unique Entity ID - a 12-character alphanumeric ID assigned to an entity by SAM.gov on April 4, 2022. As part of this transition, the DUNS number has been removed from SAM.gov and entity registration, searching, and data entry in SAM.gov now require use of the new Unique Entity ID.
21. USC: United States Code.
22. Vendor: An entity selling goods or services to the Contractor or Subcontractor during the Contractor or Subcontractor’s performance of the services under this Agreement.

B. Resolution of Language Conflicts

The terms and conditions of federal awards and other requirements have the following order of precedence, if there is any conflict in what they require:

1. The Grant Terms and Conditions.
2. The Older Americans Act and other applicable federal statutes and their implementing regulations.
3. If applicable, the Older Californians Act and other California State codes and regulations.

4. Standard Agreement (Std. 213), all Exhibits and any amendments thereto.
5. Program Memos and other guidance issued by CDA.
6. Any other documents incorporated herein by reference including, if applicable, the federal HHS terms and conditions found in Part II of the HHS Grant Policy Statement. The HHS Grant Policy Statement is available under the HHS Policy Requirements Topic at <https://www.hhs.gov/grants/grants/grants-policies-regulations/index.html>

## ARTICLE II. ASSURANCES

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

The Contractor shall 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.

### C. Nondiscrimination

The Contractor shall comply with all federal statutes relating to nondiscrimination. These include those statutes and laws contained in the Contractor Certification Clauses (CCC 307), located at <https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/Standard-Contract-Language>, 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 USC 2000d; 45 CFR 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 Cal. Gov. Code § 11135 et seq., and 2 CCR § 11140 et seq., which prohibit recipients of state financial assistance from discriminating against persons based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. [22 CCR § 98323]

3. California Civil Rights Laws

The Contractor shall ensure compliance with the requirements of California Public Contract Code § 2010 by submitting a completed California Civil Rights Laws Certification, prior to execution of this Agreement. The certificate is available at: <http://www.dgs.ca.gov/ols/Forms.aspx>

The California Civil Rights Laws Certification ensures Contractor compliance with the Unruh Civil Rights Act (Cal. Civ. Code § 51) and the Fair Employment and Housing Act (Cal. Gov. Code § 12960), and ensures that Contractor internal policies are not used in violation of California Civil Rights Laws.

4. 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 USC 12101 et seq.]
5. 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.

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, any increase in costs associated with the conflict of interest 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, CDA 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 as required by law.

H. Facility Construction or Repair

This section applies only to Title III funds and not to other funds allocated to other Titles under the OAA. Title III funds may be used for facility construction or repair.

1. When applicable for purposes of construction or repair of facilities, the Contractor shall comply with the provisions contained in the following and shall include such provisions in any applicable agreements with subcontractors:
  - a. Copeland "Anti-Kickback" Act. [18 USC 874, 40 USC 3145] [29 CFR 3]
  - b. Davis-Bacon Act. [40 USC 3141 et seq.] [29 CFR 5]
  - c. Contract Work Hours and Safety Standards Act. [40 USC 3701 et seq.] [29 CFR 5, 6, 7, 8]

- d. Executive Order 11246 of September 14, 1965, entitled “Equal Employment Opportunity” as amended by Executive Order 11375 of October 13, 1967, as supplemented in Department of Labor Regulations. [41 CFR 60]
  2. Payments are not permitted for construction, renovation, alteration, improvement, or repair of privately-owned property which would enhance the owner’s value of such property except where permitted by law and by CDA.
  3. When funding is provided for construction and non-construction activities, the Contractor must obtain prior written approval from CDA before making any fund or budget transfers between construction and non-construction.
- 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 7401]
  2. Federal Water Pollution Control Act, as amended. [33 USC 1251 et seq.]
  3. Environmental Protection Agency Regulations. [40 CFR 29] [Executive Order 11738]
  4. State Contract Act [Cal. Pub. Con. Code §10295 et seq.]
  5. Unruh Civil Rights Act [Cal. Pub. Con. Code § 2010]
- J. Debarment, Suspension, and Other Responsibility Matters
1. The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors:
    - a. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.
    - b. Have not, within a three-year period preceding this Agreement, been convicted of, or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery,

bribery, falsification or destruction of records, making false statements, or receiving stolen property.

- c. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification.
  - 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 CDA in writing, any incidents of alleged fraud and/or abuse by either the Contractor or subcontractors.
  3. The Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by CDA.
  4. The Contractor agrees to timely execute any and all amendments to this Agreement or other required documentation relating to the Subcontractor's debarment/suspension status.

K. Agreement Authorization

1. If a public entity, the Contractor shall submit to CDA a copy of an approved resolution, order, or motion referencing this Agreement number authorizing execution of this Agreement. If a private nonprofit entity, the Contractor shall submit to CDA an authorization by the Board of Directors to execute this Agreement, referencing this Agreement number.
2. These documents, including minute orders must also identify the action taken.
3. Documentation in the form of a resolution, order, or motion by the Governing Board of the Contractor 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 Contractor's Director or designee to execute the original and all subsequent amendments to this Agreement.

L. Contractor's Staff

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

M. UEI Number and Related Information

1. The Unique Entity Identifier (UEI) changed from the DUNS Number to the UEI (generated by SAM.gov) on April 4, 2022. The UEI number must be provided to the CDA prior to the execution of this Agreement. Business entities may register for a UEI number at <http://sam.gov/content/duns-uei>.
2. The Contractor must register the UEI number and maintain an “Active” status within the federal System for Award Management available online at <https://www.sam.gov/portal/SAM/#1>.
3. If CDA cannot access or verify “Active” status the Contractor’s UEI information, which is related to this federal subaward on the Federal Funding Accountability and Transparency Act Subaward Reporting System (SAM.gov) due to errors in the Contractor’s data entry for its UEI number, the Contractor must immediately update the information as required.

N. Corporate Status

1. The Contractor shall be a public entity, private nonprofit entity, or Joint Powers Authority (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.
3. Any subcontracting private entity 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.
4. Failure to maintain good standing by the contracting entity shall result in suspension or termination of this Agreement with CDA until satisfactory status is restored. Failure to maintain good standing by a subcontracting entity 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 its knowledge and belief, that:

1. No federally 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 federally 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 Contractor 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 contracts under grants, loans, and cooperative agreements which exceed \$100,000) and that all subcontractors 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.
- P. The Contractor and its Subcontractor/Vendors shall comply with Governor's Executive Order 2-18-2011, which bans expenditures on promotional and marketing items colloquially known as "S.W.A.G." or "Stuff We All Get."

### ARTICLE III. AGREEMENT

A copy of this executed Agreement is on file and available for inspection at the California Department of Aging, 2880 Gateway Oaks Drive, Suite 200, Sacramento, California 95833.

### 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 volunteer and may not be reimbursed or compensated.

#### ARTICLE V. SUBCONTRACTS

- A. The Contractor shall require language in all subcontracts to require all subcontractors to comply with all applicable State and federal laws.
- B. The Contractor is responsible for carrying out the terms of this Agreement, including the satisfaction, settlement, and resolution of 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. The Contractor's decision is final and the Subcontractor has no right of appeal to CDA.
- C. The Contractor shall, in the event any subcontractor is utilized by the Contractor for any portion of this Agreement, 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 Agreement, for handling property in accordance with Article VII of this Agreement, and ensuring the keeping of, access to, availability of, and retention of records of subcontractors in accordance with Article VI of this Agreement.
- D. The Contractor shall not obligate funds for this Agreement in any subcontracts for services beyond the ending date of this Agreement.
- E. The Contractor shall have no authority to contract for, or on behalf of, or incur obligations on behalf of the State.
- F. The Contractor shall maintain on file copies of subcontracts, memorandums and/or Letters of Understanding which shall be made available for review at the request of CDA.
- G. The Contractor shall monitor the insurance requirements of its subcontractors in accordance with Article XI of this Exhibit.
- H. The Contractor shall require language in all subcontracts to require all subcontractors to indemnify, defend, and save harmless the Contractor, its officers, agents, and employees from any and all claims and losses accruing to or resulting from any subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with any activities performed for which funds provided in support of the services within 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(s) in the performance of this Agreement.

- I. The Contractor shall ensure that the Subcontractor will complete all reporting and expenditure documents requested by CDA. These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by CDA.
- J. The Contractor shall prior to the awarding of a subcontract to any for profit entity, submit the following to CDA for review and approval:
  - i. A completed CDA 2000 (Conflict of Interest Disclosure Form) that discloses whether a potential or actual conflict of interest exists.
- K. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid invoices, documents, bids and other information used in vendor selection for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
- L. 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.
- M. The Contractor shall require all subcontractors 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.
- N. 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.
- O. The Contractor shall refer to 2 CFR 200.331, Subpart D - Subrecipient and Contractor Determinations and 45 CFR 75.351, Subpart D - Subrecipient and Contractor Determinations in making a determination if a subcontractor relationship exists. If such a relationship exists, then the Contractor shall follow the procurement requirements in the applicable OMB Circular.
- P. The Contractor shall utilize procurement procedures as follows:
  - 1. The Contractor shall obtain goods and services through open and competitive awards. Each Contractor shall have written policies and procedures, including

application forms, for conducting an open and competitive process, and any protests resulting from the process.

2. For goods and services purchased with Title III or Title VII funds, the procurement procedures must include, at a minimum, the requirements set forth in 22 CCR 7352. The only exception is contained in 22 CCR 7360(a). The Contractor issuing a noncompetitive award must comply with 22 CCR 7360(b)-(d).

## ARTICLE VI. RECORDS

- A. The Contractor shall maintain complete records which shall include, but not be limited to, accounting records, contracts, agreements, a reconciliation of the “Financial Closeout Report” (CDA Closeout) to the audited financial statements, single audit report, and general ledgers, and a summary worksheet identifying the results of performing an audit resolution of its subcontractors in accordance with Article X. of this Exhibit. This includes the following: Letters of Agreement, insurance documentation, memorandums and/or Letters of Understanding, patient or client records, and electronic files of its activities and expenditures hereunder in a form satisfactory to CDA. All records pertaining to this Agreement must be made available for inspection and audit by the State or its duly authorized agents, at any time during normal business hours.
- B. All such records, including confidential records, must be maintained and made available by the Contractor: (1) until an audit of the July 1, 2024 through June 30, 2025 period of expenditures has occurred and an audit resolution has been issued or unless otherwise authorized in writing by CDA’s Audit and Risk Management Branch, (2) for such longer period, if any, as is required by applicable statute, by any other clause of this Agreement, or by Sections A and C of this Article, and (3) for such longer period as CDA deems necessary.
- C. 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 CDA upon termination of this Agreement, and are returned to CDA or transferred to another contractor as instructed by CDA.
- D. 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.
- E. Adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures reimbursed by the State under this Agreement. Source documentation includes, but is not limited to: vendor invoices, bank statements,



cancelled checks, bank/credit card statements, contracts and agreements, employee time sheets, purchase orders, indirect cost allocation plans.

- F. All records containing confidential information shall be handled in a confidential manner in accordance with the requirements for information integrity and security, and in accordance with guidelines set forth in this Article, and Article XVIII. After the authorized period has expired, confidential records shall be shredded and disposed of in a manner that will maintain confidentiality.

## ARTICLE VII. PROPERTY

- A. Unless otherwise provided for in this Article, property refers to all assets used in the 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, toner cartridges, file folders, etc.
- B. Property acquired under this Agreement, which meets any of the following criteria is subject to the reporting requirements:
1. Has a normal useful life of at least one (1) year and has a unit acquisition cost of at least \$5,000 (a desktop or laptop setup, is considered a unit, if purchased as a unit).
  2. All computing devices, regardless of cost (including but not limited to, workstations, servers, laptops, personal digital assistants, notebook computers, tablets, smartphones and cellphones).
  3. All Portable electronic storage media, regardless of cost (including but not limited to, thumb/flash drives and portable hard drives).
- C. Intangibles are property which 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.
- D. The Contractor shall keep track of property purchased with funds from this Agreement that meet the requirements as defined in Exhibit D, Article VII, item B, and submit to CDA a Property Acquisition Form (CDA 9023) for all property furnished or purchased by either the Contractor or the Subcontractor with funds awarded under the terms of this

Agreement, as instructed by the CDA. The Contractor shall certify their reported property inventory annually with the Closeout by completing the Program Property Inventory Certification (CDA 9024), unless further restricted by Exhibit E, where applicable.

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

1. Date acquired.
2. Item description (include model number).
3. CDA-issued tag number.
4. Serial number (if applicable).
5. Purchase cost or other basis of valuation, and
6. Fund source

E. 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 CDA for all reportable property as defined in Section B of this Article. Disposition, which includes sale, trade-in, discarding, or transfer to another agency may not occur until approval is received from CDA. The Contractor shall submit to CDA a Request to Dispose of Property (CDA 248) to [property@aging.ca.gov](mailto:property@aging.ca.gov). CDA will then instruct the Contractor on disposition of the property. Once approval for disposal has been received from CDA and the Contractor has reported to CDA the Property Survey Report's (STD 152) Certification of Disposition, the item(s) shall be removed from the Contractor's inventory report. Property is not to be disposed of until both the CDA 248 and STD 152 have been approved by CDA. Contractor will be liable for repayment of purchase price of equipment if Contractor disposes of equipment without prior approval from CDA.
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, cell or smart phones, multi-function printers, and laptops.

F. Any loss, damage, or theft of equipment shall be investigated and fully documented. The Contractor shall promptly notify CDA and shall provide copies of investigative documentation and police reports as requested by CDA.

G. 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.

- H. 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 CDA regarding the final disposition of the property.
- I. 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.
- J. To exercise the above right, no later than one hundred twenty (120) days after termination of this Agreement or notification of the Contractor's dissolution, the State will issue specific written disposition instructions to the Contractor.
- K. 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. For another CDA program providing the same or similar service.
  - 2. For another CDA-funded program.
- L. The Contractor may share use of the property and equipment or allow use by other programs, upon written approval from CDA. As a condition of the approval, CDA may require reimbursement under this Agreement for its use.
- M. The Contractor or subcontractors 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.
- N. If purchase of equipment is a reimbursable item, the equipment to be purchased will be specified in the Budget Summary.
- O. 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 contracting agency, the California State Auditor, the Comptroller, General of the United States, or any of their duly authorized federal or State representatives to any books, documents, papers, and records of the

Contractor or subcontractor which are directly pertinent to this specific Agreement for the purpose of making an audit, examination, excerpts, and transcriptions. The Contractor shall include this requirement in its subcontracts.

#### ARTICLE IX. MONITORING AND EVALUATION

Welfare and Institution Code (WIC) (Division 8.5. Mello-Granlund Older Californians Act [9000 – 9757.5] Chapter 2. California Department of Aging [9100 – 9118.5] Article 1. General Provisions [9100 – 9114] Section 9102(a)) states that the State Unit on Aging shall administer all programs under the Older Americans Act of 1965, as amended, and this division, including providing ongoing oversight, monitoring, and service quality evaluation to ensure that service providers are meeting standards of service performance established by the department.

- 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, fiscal, data and procurement components. This will include policies, procedures, procurement, audits, inspections of project premises, interviews of project staff and participants, and when applicable, inspection of food preparation sites.
- 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 and subcontracts to ensure compliance with laws, regulations, and the provisions of contracts that may have a direct and/or material effect on each of its CDA funded programs.
- D. The Contractor is responsible for maintaining supporting documentation including financial and statistical records, contracts, subcontracts, 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 CDA.
- E. Review, approve, and monitor its subcontractor budgets and expenditures and any subsequent amendments and revisions to budgets. To the extent feasible, ensure that all budgeted funds are fully expended by the end of each fiscal year. [20 CFR 641.430(e)-(f)] [2 CFR 200.327] [2 CFR 200.328]

#### ARTICLE X. AUDIT REQUIREMENTS

- A. General
  - 1. Any duly authorized representative of the federal or State government, which includes but is not limited to the State Auditor, CDA Staff, and any entity selected

by State to perform inspections, shall have the right to monitor and audit Contractor and all subcontractors providing services under this Agreement through on-site inspections, audits, and other applicable means the State determines necessary. In the event that CDA is informed of an audit by an outside federal or State government entity affecting the Contractor, CDA will provide timely notice to Contractor.

2. Contractor shall make available all reasonable information necessary to substantiate that expenditures under this Agreement are allowable and allocable, including, but not limited to accounting records, vendor invoices, bank statements, cancelled checks, bank/credit card statements, contracts and agreements, employee time sheets, purchase orders, indirect cost allocation plans. The Contractor shall agree to make such information available to the federal government, the State, or any of their duly authorized representatives, including representatives of the entity selected by State to perform inspections, for examination, copying, or mechanical reproduction, on or off the premises of the appropriate entity upon a reasonable request.
3. All agreements entered into by Contractor and subcontractors with audit firms for purposes of conducting independent audits under this Agreement shall contain a clause permitting any duly authorized representative of the federal or State government access to the supporting documentation of said audit firm(s).
4. The Contractor shall cooperate with and participate in any further audits which may be required by the State, including CDA fiscal and compliance audits.

B. CDA Fiscal and Compliance Audits

1. The CDA Audits and Risk Management Branch shall perform fiscal and compliance audits of Contractors in accordance with Generally Accepted Government Auditing Standards (GAGAS) to ensure compliance with applicable laws, regulations, grants, and contract requirements.
2. The CDA fiscal and compliance audits may include, but not be limited to, a review of:
  - a. Financial closeouts (2 CFR 200.1 and 45 CFR 75.2)
  - b. Internal controls (2 CFR 200.303 and 45 CFR 75.303)
  - c. Allocation of expenditures (2 CFR 200.1 and 45 CFR 75.2)
  - d. Allowability of expenditures (2 CFR 200.403 and 45 CFR 75.403)

- e. Equipment expenditures and approvals, if required (2 CFR 200.439 and 45 CFR 75.439)

C. Single Audit Reporting Requirements (2 CFR 200 Subpart F and 45 CFR 75 Subpart F)

1. Contractor Single Audit Reporting Requirements

- a. Contractors that expend \$750,000 or more in federal funds 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; 2 CFR 200.501 to 200.521 and 45 CFR 75.501 to 75.521. A copy shall be submitted to the:

California Department of Aging  
Attention: Audits and Risk Management Branch  
2880 Gateway Oaks Drive, Suite 200  
Sacramento, CA 95833

- b. The copy shall be submitted within thirty (30) days after receipt of the Auditor's report or nine (9) 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.
- c. For purposes of reporting, 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 Catalog of Federal Domestic Assistance (CFDA) number.
- d. 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 CDA.

- 2. The Contractor shall perform a reconciliation of the "Financial Closeout Report" to the audited financial statements, single audit, and general ledgers. The reconciliation shall be maintained and made available for CDA review.

3. Contract Resolution of Contractor's Subcontractors

The Contractor shall have the responsibility for resolving its contracts with subcontractors to determine whether funds provided under this Agreement are expended in accordance with applicable laws, regulations, and provisions of

contracts or agreements. The Contractor shall, at a minimum, perform Contract resolution within fifteen (15) months of the "Financial Closeout Report."

4. The Contractor shall ensure that subcontractor single audit reports meet 2 CFR 200 and 45 CFR 75, Subparts F-Audit Requirements
5. Contract resolution includes:
  - a. Ensuring that subcontractors expending \$750,000 or more in federal awards during the subcontractor's fiscal year have met the audit requirements of 2 CFR 200.501 - 200.521 and 45 CFR 75.501 to 75.521.
  - b. Issuing a management decision on audit findings within six (6) months after receipt of the Subcontractor's single audit report and ensuring that the Subcontractor takes appropriate and timely corrective action.
  - c. Reconciling expenditures reported to the Contractor to the amounts identified in the single audit or other type of audit if the Subcontractor was not subject to the single audit requirements. For a subcontractor who was not required to obtain a single audit and did not obtain another type of audit, the reconciliation of expenditures reported to CDA must be accomplished through performing alternative procedures (e.g., risk assessment [2 CFR 200.331 and 45 CFR 75.352], documented review of financial statements, and documented expense verification, including match, etc.).
6. When alternative procedures are used, the Contractor shall perform financial management system testing, which provides, in part, for the following:
  - a. Accurate, current, and complete disclosure of the financial results of each federal award or program.
  - b. Records that identify adequately the source and application of funds for each federally funded activity.
  - c. Effective control over, and accountability for, all funds, property, and other assets to ensure these items are used solely for authorized purposes.
  - d. Comparison of expenditures with budget amounts for each federal award.
  - e. Written procedures to implement the requirements of 2 CFR 200.305.

- f. Written procedures for determining the allowability of costs in accordance with 2 CFR Part 200 and 45 CFR Part 75, Subparts E - Cost Principles.  
  
[2 CFR 200.302 and 45 CFR 75.302]
  - g. The Contractor shall document system and expense testing to show an acceptable level of reliability, including a review of actual source documents.
  - h. Determining whether the results of the reconciliations performed necessitate adjustment of the Contractor's own records.
7. The Contractor shall ensure that subcontractor single audit reports meet 2 CFR 200 and 45 CFR 75, Subparts F - Audit Requirements:
- a. Performed timely – not less frequently than annually and a report submitted timely. The audit is required to be submitted within thirty (30) days after receipt of the Auditor's report or nine (9) months after the end of the audit period, whichever occurs first. [2 CFR 200.512 and 45 CFR 75.512]
  - b. Properly procured – use procurement standards for auditor selection. [2 CFR 200.509 and CFR 75.509]
  - c. Performed in accordance with Generally Accepted Government Auditing Standards. [2 CFR 200.514 and 45 CFR 75.514]
  - d. All inclusive – includes an opinion (or disclaimer of opinion) of the financial statements; a report on internal control related to the financial statements and major programs; an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts; and the schedule of findings and questioned costs. [2 CFR 200.515 and 45 CFR 75.515]
  - e. Performed in accordance with provisions applicable to this program as identified in 2 CFR Part 200, and 45 CFR Part 75, Subpart F, Audit Requirements.
8. Requirements identified in Sections D and E of this Article shall be included in contracts with the Subcontractor. Further, the Subcontractor shall be required to include in its contract with the independent Auditor that the Auditor will comply with all applicable audit requirements/standards; CDA shall have access to all audit reports and supporting work papers, and CDA has the option to perform additional work, as needed.



9. 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 amounts; amounts resolved; amounts of match verified, resolution of variances; recovered amounts; whether an audit was relied upon or the Contractor performed an independent expense verification review (alternative procedures) of the Subcontractor in making a determination; whether audit findings were issued; and, if applicable, issuance date of the management letter; and any communication or follow-up performed to resolve the findings.
10. A reasonably proportionate share of the costs of audits required by, and performed in, accordance with the Single Audit Act Amendments of 1996, as implemented by requirements of this part, are allowable. However, the following audit costs are unallowable:
  - a. Any costs when audits required by the Single Audit Act and 2 CFR 200 and 45 CFR 75, Subparts F – Audit Requirements have not been conducted or have been conducted but not in accordance therewith; and
  - b. Any costs of auditing a non-federal entity that is exempted from having an audit conducted under the Single Audit Act and 2 CFR 200 and 45 CFR 75, Subparts F – Audit Requirements because its expenditures under federal awards are less than \$750,000 during the non-federal entity's fiscal year.
    - i. The costs of a financial statement audit of a non-federal entity that does not currently have a federal award may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal.
    - ii. Pass-through entities may charge federal awards for the cost of agreed-upon-procedures engagements to monitor subcontractors who are exempted from the requirements of the Single Audit Act and 2 CFR 200 and 45 CFR 75, Subparts F – Audit Requirements. This cost is allowable only if the agreed-upon procedures engagements are conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) attestation standards, paid for and arranged by the pass-through entity, and limited in scope to one or more of the following types of compliance requirements: activities allowed or not allowed; allowable costs/cost principles; eligibility; and reporting.  
[2 CFR 200.425]

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 State 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, the Contractor and subcontractors shall comply with the Public Utilities Commission General Order No. 115-G which requires higher levels of insurance for charter-party carriers of passengers and is based on seating capacity as follows:
    - a. \$750,000 if seating capacity is under 8
    - b. \$1,500,000 if seating capacity is 8 – 15
    - c. \$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. (All programs except Title V).
- B. The insurance will be obtained from an insurance company acceptable to the Department of General Services, Office of Risk and Insurance Management (DGS, ORIM), or be provided through partial or total self-insurance acceptable to the Department of General Services (DGS).
- C. Evidence of insurance shall be in a form and content acceptable to DGS, ORIM.
- D. The Contractor shall notify the State within five (5) business days of any cancellation, non-renewal, or material change that affects required insurance coverage.
- E. Insurance obtained through commercial carriers shall meet the following requirements:
  - 1. The Certificate of Insurance shall provide the statement: “The Department of Aging, State of California, its officers, agents, employees, and servants are included as additional insureds, with respect to work performed for the State of California under this Agreement.” Professional liability coverage is exempt from this requirement.

2. CDA shall be named as the certificate holder and CDA's address must be listed on the certificate.
- F. 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 CDA, 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, CDA may, in addition to any other remedies it may have, terminate this Agreement.
- G. 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 for general and auto 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 of its subcontractors.
- H. A copy of each appropriate Certificate of Insurance or letter of self-insurance, referencing this Agreement number shall be submitted to CDA with this Agreement.
- I. 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 under this Agreement. [Labor Code § 3700]

## ARTICLE XII. TERMINATION

### A. Termination Without Cause

CDA may terminate performance of work under this Agreement, in whole or in part, without cause, if CDA determines that a termination is in the State's best interest. CDA may terminate the Agreement upon ninety (90) days written notice to the Contractor. The Notice of Termination shall specify the extent of the termination and shall be effective ninety (90) days from the delivery of the Notice. The parties agree that if the termination of the Agreement is due to a reduction or deletion of funding by the Department of Finance (DOF), Legislature or Congress, the Notice of Termination shall be effective thirty (30) days from the delivery of the Notice. The Contractor shall submit to CDA a Transition Plan as specified in Exhibit E of this Agreement. 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

CDA may terminate, in whole or in part, for cause the performance of work under this Agreement. CDA may terminate the Agreement upon thirty (30) days written notice to the Contractor. The Notice of Termination shall be effective thirty (30) days from the delivery of the Notice of Termination unless the grounds for termination are 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 CDA a Transition Plan as specified in Exhibit E of this Agreement. 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 the 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 Contractor or evidence of a financial condition that endangers performance of this Agreement and/or the loss of other funding sources.
6. Delinquency in payment of taxes or payment of costs for performance of this Agreement in the ordinary course of business.
7. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the Contractor.
8. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income.
9. The commission of an act of bankruptcy.
10. Finding of debarment or suspension.
11. The Contractor's organizational structure has materially changed.

12. CDA determines that the Contractor may be considered a “high risk” agency as described in 2 CFR 200.205 and 45 CFR 75.205. 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 CDA, 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 Agreement.
3. Terminate all subcontracts to the extent they relate to the work terminated.
4. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, (the approval or ratification of which will be final for purposes of this clause).

D. Effective Date

Termination of this Agreement shall take effect immediately in the case of an emergency such as threat to life, health, or safety of the public. The effective date for Termination with Cause or for funding reductions is thirty (30) days and Termination without Cause is ninety (90) days subsequent to written notice to the Contractor. The notice shall describe the action being taken by CDA, the reason for such action and, any conditions of the termination, including the date of termination.

E. Voluntary Termination of Area Plan Agreement (Title III Only)

Pursuant to 22 CCR 7210, the Contractor may voluntarily terminate its contract prior to its expiration either by mutual agreement with CDA or upon thirty (30) days written notice to CDA. In case of voluntary termination, the Contractor shall allow CDA up to one hundred eighty (180) days to transition services. The Contractor shall submit a Transition Plan in accordance with Exhibit E of this Agreement.

F. Notice of Intent to Terminate by Contractor (All other non-Title III Programs)

In the event the Contractor no longer intends to provide services under this Agreement, the Contractor shall give CDA Notice of Intent to Terminate. Such notice shall be given

in writing to CDA at least one hundred eighty (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.

G. In the Event of a Termination Notice

CDA 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 CDA 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 CDA immediately of any intention to discontinue existence of the entity or to bring an action for dissolution.

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 by both parties. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.
- B. Any provision of this Agreement which conflicts with current or future applicable federal or state laws is hereby amended to conform to the provisions of those laws. Such amendment of this Agreement shall be effective on the effective date of the laws necessitating it and shall be binding upon the parties even though such amendment may not have been reduced to writing and formally agreed upon and executed by the parties.
- C. Failure by the Contractor to take necessary actions required by such amendments to this Agreement shall constitute a material violation.
- D. 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 the Director shall be completed by submitting a Std. 204 form to [finance@aging.ca.gov](mailto:finance@aging.ca.gov).
- C. Any notice given to CDA for a Contractor's change of staff contact information shall be completed by submitting an email to [BMBSubvention@aging.ca.gov](mailto:BMBSubvention@aging.ca.gov).
- D. All other notices with the exception of those identified in Section B and C of this Article shall be addressed to the California Department of Aging, AAA Based Teams, 2880 Gateway Oaks Drive, Suite 200, Sacramento, California, 95833. Notices mailed to the Contractor shall be to the address indicated on the coversheet of this Agreement.
- E. 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 CDA'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.

#### ARTICLE XVIII. INFORMATION CONFIDENTIALITY AND SECURITY

- A. This Information Confidentiality and Security Requirements section sets forth the information privacy and security requirements the Contractor is obligated to follow with respect to all personal, confidential, and sensitive information (as defined herein) disclosed to the Contractor, or collected, created, maintained, stored, transmitted, or used by the Contractor on behalf of the CDA pursuant to Contractor's Agreement with CDA. (Such personal, confidential, and sensitive information is referred to here as CDA PSCI.) CDA and the Contractor desire to protect their privacy and provide for the security of CDA PSCI in compliance with this section and state and federal laws applicable to CDA PSCI.
- B. The terms of this section shall apply to all contracts, subcontracts, and subawards made by the Contractor for services provided. The Contractor shall require its agents, subcontractors, or independent consultants (collectively, agents) to conform to this section regarding CDA PSCI.

## C. Definitions

1. **Breach:**
  - a. the unauthorized acquisition, access, use, or disclosure of CDA PSCI in a manner in which comprises the security, confidentiality, or integrity of the information; or
  - b. the same definition of “breach of the security system” set forth in California Civil Code section 1798.29, subdivision (f); or
  - c. the same as the definition of “breach” set forth in the Health Insurance Portability and Accountability Act Privacy Rule, 45 Code of Federal Regulations 164.402.
2. **Confidential Information:** Information that is exempt from disclosure under the provisions of the California Public Records Act (Government Code section 7920.000 Et seq.).
3. **Disclosure:** the release, transfer, provision of, access to, or divulging in any manner of information outside the entity holding the information.
4. **PSCI:** “personal information”, “sensitive information”, and “confidential information” (as these terms are defined herein).
5. **Personal Information:** Information that identifies or describes an individual, including, but not limited to, their name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It is CDA’s policy to consider all information about individuals private unless such information is determined to be a public record. Personal Information also includes the following:
  - a. **Notice-Triggering Personal Information:** Specific items of personal information (name plus Social Security number, driver license/California identification card number, or financial account number) that may trigger a requirement to notify individuals if it is acquired by an unauthorized person. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying information assigned to the individual, such as finger or voice print or a photograph. See California Civil Code section 1798.29.
  - b. **Protected Health Information (PHI):** The term “PHI” refers to and includes both “PHI” as defined at 45 CFR section 160.103 and Personal



Information (PI) as defined in the Information Practices Act at California Civil Code section 1798.3(a). PHI includes information in any form, including paper, oral, and electronic.

6. **Public Information:** Information that is not exempt from disclosure under the provisions of the California Public Records Act (Government Code sections 7920.000 Et seq.).
7. **Security Incident:**
  - a. A breach or attempted breach; or
  - b. The attempted or successful unauthorized access, disclosure, modification, or destruction of CDA PSCI, in violation of any state or federal law or in a manner not permitted under this section; or
  - c. the attempted or successful modification or destruction of, or interference with, the Contractor's system operations in an information technology system, that negatively impacts the confidentiality, availability, or integrity of CDA PSCI; or
  - d. any event that is reasonably believed to have compromised the confidentiality, integrity, or availability of an information asset, system, process, data storage, or transmission. Furthermore, an information security incident may also include an event that constitutes a violation or imminent threat of violation of information security policies or procedures, including acceptable use policies.
8. **Sensitive Information:** Information that requires special precautions to protect from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive Information may be either Public Information or Confidential Information. It is information that requires a higher-than-normal assurance of accuracy and completeness. Thus, the key factor for Sensitive Information is that of integrity. Typically, Sensitive Information includes records of agency financial transactions and regulatory actions.

D. Disclosure Restrictions

The Contractor shall protect CDA PSCI from unauthorized disclosure. The Contractor shall not disclose, except as otherwise specifically permitted by this section, any CDA PSCI to anyone other than CDA personnel or programs without prior written authorization from the CDA.

1. The Contractor and CDA mutually agree that the creation, receipt, maintenance, transmittal, and disclosure of data from CDA containing PHI shall be subject to the Health Insurance Portability and Accountability Act of 1996 and its implementing privacy and security regulations at 45 CFR Parts 160 and 164 (collectively and as used in this Agreement, HIPAA.). The Contractor agrees to provide the same, or greater, level of protection to CDA data that would be required if the Contractor were a Business Associate under HIPAA, regardless of whether the Contractor is or is not a Business Associate.
2. To the extent that other state and/or federal laws provide additional, stricter, and/or more protective (collectively, more protective) privacy and/or security protections to CDA PSCI covered under this section beyond those provided through HIPAA, Contractor agrees:
  - a. To comply with the more protective of the privacy and security standards set forth in applicable state or federal laws to the extent such standards provide a greater degree of protection and security than HIPAA or are otherwise more favorable to the individuals whose information is concerned; and
  - b. To treat any violation of such additional and/or more protective standards as a breach or security incident, as appropriate.
  - c. Examples of laws that provide additional and/or stricter privacy protections to certain types of CDA PSCI, as defined in this section, include, but are not limited to the Information Practices Act, California Civil Code sections 1798-1798.78, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, Welfare and Institutions Code section 5328, and California Health and Safety Code section 11845.5.
  - d. If the Contractor is a Qualified Service Organization (QSO) as defined in 42 CFR section 2.11, the Contractor agrees to be bound by and comply with subdivisions (2)(i) and (2)(ii) of that section.

E. Use Restrictions

The Contractor shall not use any CDA PSCI for any purpose other than performing the Contractor's obligations under this Agreement.

F. Safeguards and Security

The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of CDA PSCI including electronic CDA PSCI that it creates, receives, maintains, uses, or

transmits on behalf of CDA. The Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities. The Contractor's administrative, technical, and physical safeguards shall include, at a minimum:

1. Technical Security Controls:

The Contractor shall, at a minimum, utilize a National Institute of Standards and Technology Special Publication (NIST SP) 800-53 compliant security framework when selecting and implementing its security controls and shall maintain continuous compliance with NIST SP 800-53 as it may be updated from time to time. The current version of NIST SP 800-53, Revision 5, is available online at <https://csrc.nist.gov/publications/detail/sp/800-53/rev-5/final>; updates will be available online at <https://csrc.nist.gov/publications/sp800>.

2. Removable Media Devices

All electronic files that contain CDA PSCI data must be encrypted when stored on any removable media or portable device (i.e., USB thumb drives, floppies, CD/DVD, smart devices, tapes, etc.). PSCI must be encrypted, at a minimum, using a FIPS 140-2 certified algorithm or successor standards, such as Advanced Encryption Standard (AES), with a 128bit key or higher.

3. Patch Management:

The Contractor shall apply security patches and upgrades and keep virus software up to date on all systems which PHI and other confidential information may be used.

4. Confidentiality Statement:

All people that will be working with CDA PSCI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by all people prior to accessing CDA PSCI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for CDA inspection for a period of six (6) years following Agreement termination.

5. Transmission and Storage of PSCI:

All persons that will be working with CDA PSCI shall employ with FIPS 140-3 compliant encryption of PHI, at rest and in motion, unless it has been determined that such encryption is unreasonable and inappropriate based upon a risk

assessment and equivalent alternative measures are in place and documented as such.

6. Minimum Necessary:

Only the minimum necessary amount of CDA PSCI required to perform necessary business functions applicable to the terms of this Agreement may be used, disclosed, copied, downloaded, or exported.

7. Antivirus Software:

All workstations, laptops and other systems that process and/or store CDA PSCI must install and actively use a comprehensive anti-virus software solution with automatic updates scheduled at least daily.

8. Data Security:

CDA PSCI will be stored separately from other customers' data. Data will be stored and processed within the continental United States, and remote access to data from outside the continental United States will be prohibited. Data will be encrypted such that unauthorized parties are unable to read the data within the database/data repositories or any backups.

G. Employee Training

All persons who assist in the performance of functions or activities on behalf of CDA, or access or disclose CDA PSCI, must complete information privacy and security training, at least annually, at the Contractor's expense. Each person who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following Agreement termination.

H. Employee Discipline

Appropriate sanctions must be applied against persons who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.

I. Background Check

1. Before a person may access CDA PSCI, a thorough background check of that person must be conducted, with evaluation of the results to assure that there is no indication that the person may present a risk to the security or integrity of confidential data or a risk for theft or misuse of confidential data. The Contractor

shall retain each person's background check documentation for a period of three (3) years following Agreement termination.

a. Mailing:

Mailings of CDA PSCI shall be sealed and secured from damage or inappropriate viewing of PSCI to the extent possible. Mailings which include 500 or more individually identifiable records of CDA PSCI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of CDA to use another method is obtained.

b. Security Officer:

The Contractor shall designate a Security Officer to oversee its data security program who will be responsible for carrying out its privacy and security programs and for communicating on security matters with CDA.

c. Mitigation of Harmful Effects:

The Contractor shall mitigate, to the extent practicable, any harmful effect that is known to the Contractor of use or disclosure of PSCI and other confidential information in violation of the requirements of this section.

d. Access to, and Accounting For, Disclosure of PSCI

The Contractor shall document and make available to CDA or (at the direction of CDA) to an Individual such disclosures of CDA PSCI and information related to such disclosures necessary to respond to a proper request by the subject Individual for an accounting of disclosures of personal information as required by 45 CFR section 164.524 or any applicable state or federal law.

J. Access to Practices, Books, and Records

The Contractor shall make its internal practices, books, and records relating to the use and disclosure of PSCI on behalf of CDA available to CDA upon reasonable request.

K. Special Provision for SSA Data

If the Contractor receives data from or on behalf of CDA that was verified by or provided by the Social Security Administration (SSA Data) and is subject to an agreement between CDA and SSA, the Contractor shall provide, upon request by CDA, a list of all

employees and agents who have access to such data, including employees and agents of its agents, to CDA.

L. Breaches and Security Incidents

The Contractor shall implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and take the following steps:

1. Notice to CDA:

The Contractor shall notify CDA immediately by email or telephone of the discovery of:

- a. Unsecured CDA PSCI if the CDA PSCI is reasonably believed to have been accessed or acquired by an unauthorized person.
- b. Any suspected security incident which risks unauthorized access to CDA PSCI and/or other confidential information.
- c. Any intrusion or unauthorized access, use, or disclosure of CDA PSCI in violation of this Agreement; or
- d. Potential loss of confidential data affecting this Agreement.
- e. Notice via email shall be made using the current CDA 1025 “Information Security Incident Report” forms and shall include all information known at the time the incident is reported. The forms are available online at: [https://aging.ca.gov/Information\\_security/](https://aging.ca.gov/Information_security/)
- f. Upon discovery of a breach or suspected security incident, intrusion, or unauthorized access, use or disclosure of CDA PSCI, the Contractor shall take:
  - i. Prompt corrective action to mitigate any risks or damages involved with the security incident or breach; and
  - ii. Any action pertaining to such unauthorized disclosure is required by applicable Federal and State laws and regulations.

2. Investigation of Security Incident or Breach

The Contractor shall immediately investigate such security incident, breach, or unauthorized use or disclosure of CDA PSCI.

3. Complete Report

The Contractor shall provide a complete report of the investigation to CDA within (10) working days of the discovery of the breach or unauthorized use or disclosure. The complete report must include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable federal and state laws. The report shall include a full, detailed corrective action plan including information on measures that were taken to halt and/or contain improper use or disclosure. If CDA requests information in addition to this report, the Contractor shall make reasonable efforts to provide CDA with such information. CDA will review and approve or disapprove the Contractor's determination of whether a breach occurred, whether the security incident or breach is reportable to the appropriate entities, if individual notifications are required, and the Contractor's corrective action plan.

- a. If the Contractor does not submit a complete report within the ten (10) working day timeframe, the Contractor shall request approval from CDA within the ten (10) working days timeframe of a new submission timeframe for the complete report.

4. Notification of Individuals

If the cause of a breach is attributable to the Contractor or its agents, the Contractor shall notify individuals accordingly and shall pay all costs of such notifications as well as any costs associated with the breach. The notifications shall comply with applicable federal and state law. CDA shall approve the time, manner, and content of any such notifications and their review and approval must be obtained before the notifications are made.

5. Responsibility for Reporting Breaches to Entities other than CDA

If the cause of a breach of CDA PSCI is attributable to the Contractor or its subcontractors, the Contractor is responsible for all required reporting of the breach as required by applicable federal and state law.

6. Submission of Sample Notification to Attorney General:

If notification to more than 500 individuals is required pursuant to California Civil Code section 1798.29, regardless of whether the Contractor is considered only a custodian and/or non-owner of the CDA PSCI, the Contractor shall, at its sole expense and at the sole election of CDA, either:

- a. Electronically submit a single sample copy of the security breach notification, excluding any personally identifiable information, to the

Attorney General pursuant to the format, content, and timeliness provisions of Section 1798.29, subdivision (e). The Contractor shall inform the CDA Privacy Officer of the time, manner, and content of any such submissions prior to the transmission of such submissions to the Attorney General; or

- b. Cooperate with and assist CDA in its submission of a sample copy of the notification to the Attorney General.

M. Contact Information

To direct communications to the above referenced CDA staff, the Contractor shall initiate contact as indicated herein. CDA reserves the right to make changes to the contact information below by giving written notice to the Contractor.

<b>CDA Privacy Officer</b>	<b>CDA Information Security Officer</b>
Office of Legal Services 2880 Gateway Oaks Drive, Suite 200 Sacramento, CA 95833 Attn: Chief Counsel Email: <a href="mailto:privacy@aging.ca.gov">privacy@aging.ca.gov</a> Telephone: (916) 419-7500	Information Security Branch 2880 Gateway Oaks Drive, Suite 200 Sacramento, CA 95833 Attn: Information Security Officer Email: <a href="mailto:iso@aging.ca.gov">iso@aging.ca.gov</a> Telephone: (916) 419-7500

N. Responsibility of CDA

CDA agrees to not request the Contractor use or disclose PSCI in any manner that would not be permissible under HIPAA and/or other applicable federal and/or state law.

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 Section B of this Article.
2. The Contractor may request permission to copyright material by writing to the Director of CDA. The Director shall grant permission or give reason for denying permission to the Contractor in writing within sixty (60) days of receipt of the request.
3. If the material is copyrighted with the consent of CDA, 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 to 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 work outlined within this Agreement for the acquisition, operation, or maintenance of computer software in violation of copyright laws.

B. Rights in Data

1. The Contractor shall not publish or transfer any materials, as defined in paragraph 2 below, produced or resulting from activities supported by this Agreement without the express written consent of the Director of CDA. That consent shall be given, or the reasons for denial shall be given, and any conditions under which it is given or denied, within thirty (30) days after the written request is received by CDA. CDA may request a copy of the material for review prior to approval of the request. This subsection is not intended to prohibit the Contractor 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 the performance of the services outlined in this Agreement. The term does not include financial reports, cost analyses and similar information incidental to program administration, or the exchange of that information between contractors to facilitate uniformity of program administration on a statewide basis.
3. Subject only to other provisions of this Agreement, 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.

C. Advertising and Public Relations

1. All press releases or any program advertisement utilizing the CDA logo must be approved by the CDA Office of Communications prior to dissemination. Approval is also required for all use of CDA logo or mention of CDA in materials. The Contractor should email the draft press release to [communications@aging.ca.gov](mailto:communications@aging.ca.gov) at least fourteen (14) days in advance of the announcement or event and copy the appropriate CDA Program team.

2. The Contractor must coordinate media and kick-off events with the CDA Office of Communications.
3. If CDA funds are used for outreach, including paid and earned advertising, all materials must receive preapproval from the CDA Office of Communications before publication or production. Any mention of the CDA name or organization in press or outreach materials requires prior approval. The appropriate CDA program manager will coordinate this process. Materials should be submitted to the appropriate CDA program manager for the CDA Office of Communications for review. They will be assessed in batches on the first and fifteenth of each month, with a minimum ten (10) business day approval period.

D. Copyrights/Trademarks

The CDA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal or state government purposes the following:

1. The copyright/trademark in any work developed under a grant, sub grant or contract under a grant or sub grant.
2. Any rights of copyright/trademark to which a contractor or subcontractor purchases ownership with grant funds.