

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

21-773

SAP Number

N/A

Department of Aging and Adult Services

Department Contract Representative	<u>Patty Steven, Contract Analyst</u>
Telephone Number	<u>909.388.0212</u>
Contractor	<u>California Department of Aging</u>
Contractor Representative	<u>Nate Gillen, Manager</u>
Telephone Number	<u>916.419.7556</u>
Contract Term	<u>November 2, 2021 through October 31, 2022</u>
Original Contract Amount	<u>\$31,593</u>
Amendment Amount	<u>N/A</u>
Total Contract Amount	<u>\$31,593</u>
Cost Center	<u>3000070; 3000071</u>

Revenue Contract (State Agreement No. FA-2122-20) with the California Department of Aging for Financial Alignment funds to provide counseling, support, and information regarding health coverage options to dual eligible Medicare and Medi-Cal beneficiaries in the amount of \$31,593 for contract term of November 2, 2021 through October 31, 2022.

FOR COUNTY USE ONLY

Approved as to Legal Form

DocuSigned by:

Jacqueline Carey-Wilson

Jacqueline Carey-Wilson, Deputy County Counsel

Date October 18, 2021

Date

Reviewed for Contract Compliance

DocuSigned by:

Becky Giroux

Becky Giroux, Contracts Manager

Date October 19, 2021

Date

Reviewed/Approved by Department

DocuSigned by:

Sharon Nevins

Sharon Nevins, Director

Date October 17, 2021

Date

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

FA-2122-20

PURCHASING AUTHORITY NUMBER (If Applicable)

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

CONTRACTING AGENCY NAME

California Department of Aging

CONTRACTOR NAME

County of San Bernardino Aging & Adult Svcs

2. The term of this Agreement is:

START DATE

11/2/2021

THROUGH END DATE

10/31/2022

3. The maximum amount of this Agreement is:

\$ 31,593 Thirty-one thousand five hundred ninety-three and 00/100 dollars

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

Exhibits	Title	Pages
Exhibit A	Scope of Work	8 pages
Exhibit A, Attachment 1	General Information	1 page
Exhibit B	Budget Detail and Payment Provisions	7 pages
Exhibit B, Attachment 1	Budget Display	1 page
Exhibit C	General Terms and Conditions – GTC-4/2017*	0 pages
Exhibit D	Special Terms and Conditions	35 pages
Exhibit E	Additional Provisions	16 pages

Items shown with an asterisk (), are hereby incorporated by reference and made part of this agreement as if attached hereto.**These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>***IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.****CONTRACTOR**

CONTRACTOR NAME (If other than an individual, state whether a corporation, partnership, etc.)

County of San Bernardino Aging & Adult Svcs

CONTRACTOR BUSINESS ADDRESS

784 E. Hospitality Lane

CITY

San Bernardino

STATE

CA

ZIP

92415-0009

PRINTED NAME OF PERSON SIGNING

Sharon Nevins

TITLE

Director

CONTRACTOR AUTHORIZED SIGNATURE



DATE SIGNED

11/16/21

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

California Department of Aging

CONTRACTING AGENCY ADDRESS

1300 National Drive, Suite 200

CITY

Sacramento

STATE

CA

ZIP

95834

PRINTED NAME OF PERSON SIGNING

Nate Gillen

TITLE

Chief, Business Management Branch

CONTRACTING AGENCY AUTHORIZED SIGNATURE



DATE SIGNED

11/18/22

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

AG OP 80-111

ARTICLE I. PROGRAM DEFINITIONS

- A. **Accomplishments** mean tasks that were accomplished during this reporting period.
- B. **Agreement or Contract** is a subaward as described in 45 CFR 75.351 and means the Standard Agreement (Std. 213), Exhibits A, B, C, D and E, 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.
- C. **CalAIM** means California Advancing & Innovating Medi-Cal. It is a framework developed by the Department of Health Care Services (DHCS) that encompasses broad-based delivery system, program and payment reform across the Medi-Cal program.
- D. **Cal MediConnect** (formerly the Dual Eligible Demonstration Project) means a demonstration program that coordinates health care services for people with Medicare and Medi-Cal through an integrated system of health care delivery, including medical, behavioral, and long-term support. Cal MediConnect is authorized by Section 1115A of the Social Security Act (added by Section 3021 of the Patient Protection and Affordable Care Act, PL 111-148), and it is a key element of California's Coordinated Care Initiative (CCI). The CCI was authorized pursuant to SB 1008 (Chapter 33, Statutes of 2012) and SB 1036 (Chapter 45, Statutes of 2012), and reauthorized in the 2017-18 California Budget.
- E. **Centers for Medicare & Medicaid Services (CMS)** mean the federal Medicare/Medicaid Agency.
- F. **Contractor** is a sub-recipient as described in 45 CFR 75.351 and means the Area Agency on Aging (AAA) awarded funds under this Agreement and 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.
- G. **Dual Eligible Beneficiaries** mean individuals 21 years of age or older who are enrolled for benefits under Medicare Part A (42 U.S.C. Sec. 1395c et seq.) or Medicare Part B (42 U.S.C. Sec. 1395j et seq.), or both, and is eligible for medical assistance under the Medi-Cal State Plan.
- H. **Dual-Eligible Special Needs Plans (D-SNPs)** are Medicare Advantage (MA) health plans which provide specialized care and wrap-around services for dual eligible beneficiaries (eligible for both Medicare and Medicaid).

ARTICLE I. PROGRAM DEFINITIONS (Continued)

- I. **Eligible Service Population** means dual eligible beneficiaries eligible for, enrolled in, or targeted for enrollment into a Cal MediConnect Health Plan, or beneficiaries' designated representative.
- J. **Enhanced Outreach** means outreach activities above and beyond routine activities planned in response to other funding (e.g., State Health Insurance Assistance Program (SHIP) Funds, and Medicare Improvements for Patients and Providers Act (MIPPA) Funds), tailored to the specific needs of dual eligible beneficiaries eligible for, enrolled in, or targeted for enrollment into a Cal MediConnect Health Plan.
- K. **Enrollment Brokers** mean third-party entities that enroll beneficiaries into Cal MediConnect plans chosen by the beneficiary.
- L. **Financial Alignment (FA) Model** means the model the State is using to enroll dual eligible beneficiaries in Cal MediConnect health plans that integrate benefits and align financial incentives between Medicare and Medi-Cal.
- M. **Health Insurance Counseling and Advocacy Program (HICAP)** means a program designed to provide Medicare beneficiaries and those imminent of becoming eligible for Medicare with counseling and advocacy about Medicare, private health insurance, and related health care coverage plans for the purpose of preserving service integrity on a Statewide basis. [Welf. & Inst. Code § 9541]
- N. **Indirect Costs** mean costs incurred for a common or joint purpose benefitting more than one cost objective and not readily assignable to the cost objective specifically benefitted without effort disproportionate to the results achieved.
- O. **Long Term Services and Supports (LTSS)** are Medi-Cal programs that provide assistance with Activities of Daily Living, and include a range of home and community based services, such as: In-Home Supportive Services; Community-Based Adult Services; and Multipurpose Senior Services Program, in addition to care in nursing facility services when needed.
- P. **One-on-one Counseling** means the provision of local counseling and informational resources that enable dual eligible beneficiaries to make informed decisions about what forms of coverage best meet an individual's care needs (for example, considerations relative to enrolling in or changing Cal MediConnect Plans).

ARTICLE I. PROGRAM DEFINITIONS (Continued)

- Q. **Program Income** means revenue generated by the Contractor or Subcontractor from contract-supported activities. Program income includes:
1. Voluntary contributions received from a participant or responsible party as a result of the service(s)
 2. Income from usage or rental fees of real or personal property acquired with funds provided under this Agreement
 3. Royalties received on patents and copyrights from contract-supported activities
 4. Proceeds from the sale of items fabricated under a contract agreement
- R. **State Health Insurance Assistance Program (SHIP)** is a program designed to provide Medicare beneficiaries and those imminent of becoming eligible for Medicare with counseling and advocacy as to Medicare, private health insurance, and related health care coverage plans, on a Statewide basis. [Welf. & Inst. Code §9541]. In California, SHIP is the same program as the Health Insurance Counseling and Advocacy Program (HICAP). This term may be used interchangeably with HICAP.
- S. **Statewide HICAP Automated Reporting Program (SHARP)** means the State's proprietary database for reporting HICAP data to federal grantors.
- T. **Social Security Act Section 1115A** means the section added by Section 3021 of the Patient Protection and Affordable Care Act (PPACA) (P.L. 111-148) that authorizes the CMS Innovation Center to test innovative payment and service delivery models to reduce program expenditures under Medicare, Medicaid, and the Children's Health Insurance Program while preserving or enhancing quality of life.

ARTICLE II. SCOPE OF WORK

- A. **General Provisions**
1. The Scope of Work shall be performed by the Contractor and/or its HICAP Subcontractor.
 2. All contract and subcontract activities must be separate, distinct, over and above those related activities provided through other funding sources (e.g., State Health Insurance Assistance Program (SHIP) Base Grant, and Medicare Improvements for Patients and Providers Act (MIPPA) Funds) and must meet CDA and CMS performance requirements.

ARTICLE II. SCOPE OF WORK (Continued)

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

- 1. Ensure all applicable laws and regulations, including the statutory requirements of HICAP [Welf. & Inst. Code §9541] are met. Services shall also be provided in accordance with applicable grant terms and conditions, the HICAP Program Manual, and any other subsequent CDA Program Memos (PMs), provider bulletins or similar instructions issued by federal or State agencies during the term of this Agreement.**
- 2. Ensure that the Eligible Service Population, as defined in Exhibit A, Article I, I, is provided with services in a manner that:**
 - Is fair, objective, timely, complete and impartial;
 - Empowers consumers to make informed decisions about selecting plans that best meet their health and LTSS needs, and continues to meet their needs;
 - Refers consumers and their families to other resources as needed;
 - Ensures an appropriate availability of counselors;
 - Culturally and linguistically appropriate; and
 - Complies with accessibility and non-discrimination laws and regulations as they apply to Project activities (including the Americans with Disabilities Act, Sections 504 and 510 of the Rehabilitation Act of 1973, and Section 1557 of the Affordable Care Act).
- 3. Ensure outreach and one-on-one counseling activities are enhanced to reach Dual Eligible sub-populations, such as beneficiaries with Limited English Proficiency, intellectual and developmental disabilities, severe and persistent mental illness, those with behavioral and cognitive disabilities, and other demonstration sub-populations.**
- 4. Ensure that the activities provided through this Agreement are separate, distinct, above and beyond those authorized under other Federal initiatives. The FA-2122 program activities include, but are not limited to:**
 - a. Staying apprised of the status of the Cal MediConnect demonstration, including plan participation, enrollment schedules, and outreach campaigns;**
 - b. Developing and providing HICAP Counselors with the information, training, and tools to effectively and efficiently help the Eligible Service Population;**

ARTICLE II. SCOPE OF WORK (Continued)

- c. Conducting outreach to educate the Eligible Service Population and their caregivers and representatives about their coverage options, including those available through the Cal MediConnect demonstration;
 - d. Partnering with stakeholders, including Area Agencies on Aging, Aging and Disability Resource Connection programs, county Medi-Cal offices, Independent Living Centers, the Cal MediConnect Ombudsman, and other entities to conduct beneficiary outreach and education.
 - e. Assisting the Eligible Service Population and their caregivers and representatives in making informed decisions about what forms of coverage best meet an individual's care needs (for example, considerations relative to enrolling in or changing Cal MediConnect plans).
 - f. Assisting the Eligible Service Population with enrollment and disenrollment activities, including referring to or assisting with the state enrollment broker, when applicable.
 - g. Referring beneficiaries, as appropriate, to other organizations, including the Cal MediConnect Ombudsman Program and other service organizations.
 - h. Apprising CDA of trends or lessons learned affecting the Eligible Service Population.
 - i. Providing targeted activities to reach sub-populations of the Eligible Service Population in the Planning and Service Area (PSA). Sub-populations include, but are not limited to, dual eligible beneficiaries with limited English proficiency, intellectual and developmental disabilities, severe and persistent mental illness, behavioral or cognitive disabilities, and dual eligible beneficiaries in federally recognized American Indian tribes.
5. Develop and implement a customer satisfaction process to ensure service quality, and report results to CDA. If the results of the customer satisfaction process show material deficiencies in activities, Contractor shall submit a corrective action plan as instructed by CDA.
6. Participate in quarterly calls with CDA to review progress of the agreement.

ARTICLE II. SCOPE OF WORK (Continued)

7. Provide to CDA, prior to release of funds, a detailed FA Work Plan that outlines: Goals, Measurable Outcomes, Major Objectives, Key Tasks, Lead Person assigned, Timeframe (Start and End Dates), and the specific mechanisms that the HICAP Contractor will use to coordinate efforts with other local organizations to ensure that the work is collaborative and non-duplicative, and that resources are appropriately leveraged to provide maximum effectiveness.

Work Plan elements must align with CalAIM initiatives to transition California's FA Model demonstration (Cal MediConnect) to a statewide MLTSS and Dual-Eligible Special Needs Plan (D-SNPs) aligned enrollment structure.

The CDA-approved FA-2122 Work Plan is hereby incorporated by reference as part of this Exhibit.

CDA may request revisions to the Work Plan at any time.

Updates to the approved Work Plan and documentation of progress towards reaching projected goals shall be included with Semi-Annual reports, as specified by CDA in Exhibit E. Article II of this contract.

8. Ensure adequate staffing to cover all contract requirements and timelines.
9. Prepare and submit Semi-Annual and Final progress reports as specified by CDA in Exhibit E, Article II of this contract.
10. The Contractor shall be evaluated, or be required to evaluate its subcontractor for risk of noncompliance with federal statutes, regulations, and the terms and conditions of this Agreement for purposes of determining the appropriate subcontractor monitoring as required under 45 CFR Section 75.352(b).
11. Monitor, on an ongoing basis, all use of contract funds through reporting, regular contact, or other means to provide reasonable assurance that the contract funds are administered in compliance with laws, regulations, and the provisions of the contract and that performance goals are achieved [45 CFR Part 75.342].

This agreement is subject to 45 CFR Part 75, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS awards.

ARTICLE II. SCOPE OF WORK (Continued)

Monitoring requirements include, but are not limited to:

- a. Review, approve, and monitor on an ongoing basis subcontractor budgets and expenditures and any subsequent amendments and revisions to budgets
 - b. The Contractor, while monitoring the Subcontractor, must:
 - i. Review required financial and programmatic reports.
 - ii. Follow-up and ensure that the Subcontractor takes timely and appropriate action on all deficiencies pertaining to funds awarded under this Agreement detected through audits, on-site reviews, and other means
 - c. Consider imposing specific conditions as described in 45 CFR Section 75.207 upon a subcontractor with a history of failure to comply with general or specific terms and conditions of a federal award or failure to meet expected performance goals of the Contract.
- 12. As notified by CDA, the Contractor and Sub-Contractors shall cooperate in any site visits conducted by CMS or its designee(s), in technical assistance provided by ACL, and with CMS contractors supporting the implementation of the demonstration, including the independent evaluator, actuarial rate setting services contractor, and operations support contractor.
 - 13. Ensure that all responsible persons have access to up-to-date materials, standards, policies, and procedures relevant to Cal MediConnect.
 - 14. Ensure all applicable provisions required within this Agreement are included in any subcontract entered into by the Contractor pursuant to this Agreement.
 - 15. Provide training, support and technical assistance to the Subcontractor as needed and respond in writing to all written requests from subcontractors for guidance, and interpretation of instructions.
 - 16. Provide timely notice to CDA of any changes to the program or changes in the status of the Contractor that could restrict the operations of, or access to, FA services. Require the Subcontractor to provide timely notice to the Contractor of any changes to the program or changes in the status of the Subcontractor that could restrict operation of, or access to, FA services. These changes include, but are not limited to: personnel changes, phone number changes, headquarters office address changes, and mailing

ARTICLE II. SCOPE OF WORK (Continued)

address changes. If subcontracted, the Contractor will forward the updated information to the CDA HICAP team.

17. Collect, verify, approve, and report all required monthly data to CDA using the State HICAP Automated Reporting System (SHARP), as specified in Exhibit E, Article II of this Agreement.
18. The Contractor and Subcontractor shall use SHARP Duals Demonstration data reports to evaluate efforts to reach the Eligible Service Population, and for reference in completing Semi-Annual, Final, and Ad hoc reports as specified in Exhibit E, Article II of this Agreement.

C. Other Provisions and Assumptions

1. The Contractor shall:
 - a. Ensure that Project staff and volunteers neither engage in the solicitation of insurance nor endorse the services of any insurer or managed care plan, claims processing organization, or other enterprise that could benefit from activities conducted during this Project. All Project staff and volunteers shall provide FA educational services in a manner that is objective and impartial and shall provide counseling consistent with the best interests of the clients and which preserves the independent decision-making responsibilities of the client.
 - b. Ensure that the Project, Project staff, and Project volunteers shall not have a conflict of interest such as, but not limited to, a business relationship with insurers, health plans, or organizations posing a conflict of interest. The Contractor shall assure that Project staff and volunteers do not accept money or gifts from any client in exchange for services in accordance with Department guidance on conflict of interest and the HICAP Program Manual.
 - c. Take all reasonable and necessary measures to ensure that advisors, employees, and volunteers associated with the operation of the Project agree to act in a manner that prevents the appearance of impropriety or any other act which would place in jeopardy HICAP's reputation as an independent and impartial program. The Contractor shall ensure that advisors and governing board members shall be recused from the affairs of the Project in cases of existing employment or compensation from the health insurance or managed health care industries.

EXHIBIT A, Attachment 1
General Information

SCOPE OF WORK

1. The Contractor agrees to provide to the California Department of Aging (CDA) the services described herein Agreement number FA-2122-20.
2. The services shall be performed in Planning and Service Area(s): 20.
3. The services shall be provided as needed.
4. The project representatives during the term of this agreement will be:

State Agency: California Department of Aging	Contractor: County of San Bernardino Aging & Adult Svcs
Name: Local Finance Manager	Name: Sharon Nevins, Director
Phone: (916) 931-1936	Phone: (909) 891-3917
Fax: (916) 928-2510	Fax: (909) 387-2900
Email: localfinance@aging.ca.gov	Email: Sharon.Nevins@hss.sbcounty.gov

Direct all contract document inquiries to:

State Agency: California Department of Aging	Contractor: County of San Bernardino Aging & Adult Svcs
Section/Unit: Business Management Bureau	Section/Unit:
Attention: Grace Parker, Manager	Attention: Patricia Steven
Address: 2880 Gateway Oaks Dr., Ste 200 Sacramento, CA 95833	Address: 784 E. Hospitality Lane San Bernardino, CA 92415
Phone: (916) 931-1929	Phone: (909) 388-0212
Fax: (916) 928-2500	Fax: (909) 387-2900
Email: BMBContractAnalyst@aging.ca.gov	Email: patricia.steven@hss.sbcounty.gov

The parties may change their representatives upon providing ten days written notice to the other party. Said changes do not require an amendment to this agreement.

FA-2122 Contract
Exhibit B – Budget Detail, Payment Provisions, and Closeout

ARTICLE I. FUNDS

A. Expenditure of Funds

1. The Contractor shall expend all funds received hereunder in accordance with this Agreement.
2. Any reimbursement for authorized travel and per diem shall be at rates not to exceed those amounts paid by the State in accordance with the California Department of Human Resources' (CalHR) rules and regulations.

In State:

- Mileage/Per Diem (meals and incidentals)/Lodging
<https://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>

Out of State: <http://hrmanual.calhr.ca.gov/Home/ManualItem/1/2201>

This is not to be construed as limiting the Contractor from paying any differences in costs, from funds other than those provided by CDA, between the CalHR rates and any rates the Contractor is obligated to pay under other contractual agreements. No travel outside the state of California shall be reimbursed unless prior written authorization is obtained from the State. [SCM 3.17.2.A(4)]

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

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

B. Accountability for Funds

1. The Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from those for any other funds administered by the Contractor, and shall be maintained in accordance with Generally Accepted Accounting Principles and Procedures and the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards. [45 CFR 75]

FA-2122 Contract
Exhibit B – Budget Detail, Payment Provisions, and Closeout

ARTICLE I. FUNDS (Continued)

2. Financial Management Systems

The Contractor shall meet the stipulations for Financial management and standards for financial management systems outlined in 45 CFR 75.302 including but not limited to:

- a. Financial Reporting.
- b. Accounting Records.
- c. Complete Disclosure.
- d. Source Documentation.
- e. Internal Control.
- f. Budgetary Control.
- g. Cash Management (written procedures).
- h. Allowable Costs (written procedures).

C. Unexpended Funds

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

D. Funding Contingencies

- 1. It is understood between the parties that this Agreement may have been written before ascertaining the availability or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if this Agreement were executed after that determination was made.
- 2. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the Budget Acts of the appropriate fiscal years for purposes of this program(s). In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or the Legislature that may affect the provisions, terms, or funding of this Agreement in any manner.

FA-2122 Contract
Exhibit B – Budget Detail, Payment Provisions, and Closeout

ARTICLE I. FUNDS (Continued)

3. Limitation of State Liability

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

4. Funding Reduction(s)

- a. If funding for any State fiscal year is reduced or deleted by the Department of Finance, Legislature, or Congress for the purposes of this program, the State shall have the option to either:
 - i. Terminate the Contract pursuant to Exhibit D, Article XII., A of this Agreement, or
 - ii. Offer a contract amendment to the Contractor to reflect the reduced funding for this Contract.
- b. In the event the State elects to offer an amendment, it shall be mutually understood by both parties that:
 - i. The State reserves the right to determine which contracts, if any, under this program shall be reduced.
 - ii. Some contracts may be reduced by a greater amount than others, and
 - iii. The State shall determine at its sole discretion the amount that any or all of the contracts shall be reduced for the fiscal year.

E. Interest Earned

- 1. Interest earned on federal advance payments deposited in interest-bearing accounts must be remitted annually to CDA. Interest amounts up to \$500 per year may be retained by the Contractor and subcontractors for administrative expenses. [45 CFR 75.305 (b)(9)]
- 2. Interest earned on advances of federal funds shall be identified as non-match cash.

FA-2122 Contract
Exhibit B – Budget Detail, Payment Provisions, and Closeout

ARTICLE I. FUNDS (Continued)

3. The Contractor must maintain advance payments of federal awards in interest-bearing accounts, unless the following apply:
[45 CFR 75.305 (b)(8)]
 - a. The Contractor receives less than \$120,000 in federal awards per year.
 - b. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on federal cash balances.
 - c. The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.
 - d. A foreign government or banking system prohibits or precludes interest bearing accounts.

ARTICLE II. BUDGET AND BUDGET REVISION

- A. The Contractor shall be compensated for expenses only as itemized in the approved Budget with the exception of 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.
- B. The Budget must set forth in detail the reimbursable items, unit rates and extended total amounts for each line item. The Contractor's budget shall include, at a minimum, the following items when reimbursable under this Agreement:
 1. Personnel Costs – monthly, weekly, or hourly rates, as appropriate and personnel classifications together with the percentage of time to be charged to this Agreement.
 2. Fringe Benefits.
 3. Contractual Costs - subcontract and consultant cost detail.
 4. Indirect Costs.
 5. Rent – specify square footage and rate.
 6. Supplies.
 7. Equipment – detailed descriptions and unit costs.

FA-2122 Contract
Exhibit B – Budget Detail, Payment Provisions, and Closeout

ARTICLE II. BUDGET AND BUDGET REVISION (Continued)

8. In State Travel – mileage reimbursement rate, lodging, per diem and other costs.
 9. Out of State Travel - any travel outside the State of California including mileage reimbursement rate, lodging, per diem and other costs.
 10. Other Costs – a detailed list of other operating expenses.
- C. The Contractor shall ensure that the Subcontractor shall submit a budget, which shall be incorporated by reference into the Subcontract and will have, at a minimum, the categories listed in Section B. above.
- D. Unless otherwise specified by CDA, the final budget revision must be submitted at least ninety (90) days prior to the ending date of the Contract.
- E. Indirect Costs
1. The maximum reimbursement amount allowable for indirect costs is ten percent (10%) of the Contractor's and/or Subcontractor's direct costs, excluding in-kind contributions and nonexpendable equipment unless there is an accepted negotiated rate. [45 CFR 75.414 (c) (1) and (f)].
 2. Contractors requesting reimbursement for indirect costs shall retain on file an approved indirect cost rate or an allocation plan documenting the methodology used to determine the indirect costs.
 3. Indirect costs exceeding the ten percent (10%) maximum may be budgeted as in-kind and used to meet the minimum matching requirements (Title III and Title VII only).
 4. For major Institutes of Higher Education and major nonprofit organizations, indirect costs must be classified within two broad categories: "Facilities" and "Administration." "Facilities" is defined as depreciation on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses. "Administration" is defined as general administration and general expenses such as the director's office, accounting, personnel and all other types of expenditures not listed specifically under one of the subcategories of "Facilities" (including cross allocations from other pools, where applicable). [45 CFR 75.414(a)]

FA-2122 Contract

Exhibit B – Budget Detail, Payment Provisions, and Closeout

ARTICLE II. BUDGET AND BUDGET REVISION (Continued)

F. Equipment

Equipment/Property with per unit cost over \$5,000 or any computing devices, regardless of cost requires justification from the Contractor and approval from CDA and must be included in its approved Budget.

ARTICLE III. PAYMENT

- A. Upon execution of the contract, an advance payment of one-sixth of the contract amount shall be issued every other month of the contract. Advance payments are contingent upon approved monthly expenditure reports and compliance with the other material terms of this Agreement. [Welfare & Institutions Code 9114].
- B. The Contractor shall prepare and submit a Report of Expenditures due 30 days after the last day of each month. Advances shall not be issued without receipt and approval of previous month's expenditure reports.
- C. Payments will be made to reimburse expenditures reported greater than the one-sixth advance at the time of issuance of the advance. CDA will utilize the expenditure reports to ensure that an ongoing reconciliation of funding to advance is maintained.
- D. During the Contract period, requests to expedite payments shall be reviewed and based on an analysis of the Contractor's need to provide services.
- E. The State Controller's Office closes payment processing in FISCAL in order to complete Year-End activities annually. Approximately, between June 15th - July 5th, payment processing will be disabled.

ARTICLE IV. CLOSEOUT

- A. All contractors must submit Closeout Reports to CDA, as instructed by CDA.
- B. All contractors must submit the Report of Property Purchased with Agreement Funds (CDA 32) with the Closeout Report.
- C. Closeout reporting documents must be addressed to the CDA Fiscal Team.
- D. 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.

FA-2122 Contract

Exhibit B – Budget Detail, Payment Provisions, and Closeout

ARTICLE IV. CLOSEOUT (Continued)

The payment on the invoice is due immediately upon receipt or no later than 30 days from the date on the invoice.

State of California California Department of Aging		Agreement #: FA-2122-20 Date: 11/1/2021		
Exhibit B, Attachment 1 - Budget Display		Amendment #: Date		
Page 1 of 1				
FINANCIAL ALIGNMENT (FA) Budget Display				
Budget Period: November 1, 2021 - October 31, 2022				
County of San Bernardino Aging & Adult Svcs				
PROJECT				
Financial Alignment Funds		FA 2122 Baseline	Amendment	TOTAL
Federal Trust Fund		31,593	0	31,593
Total - 2122 FA Funds		31,593	0	31,593
Note 1 Administration costs not to exceed 10% of total allocation. Note 2 2122 FA funds must be fully expended by October 31, 2022 and reported in closeout no later than November 30, 2022.				
Funds for this contract are provided by using the following Centers for Medicare & Medicaid Services grant:				
CFDA#	Project Title	Contract Name	Award #	Effective Date
93.634	Financial Alignment	2122 FA	TBD	11/1/2021

FA-2122 Contract
Exhibit D – Special Terms and Conditions

ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS

A. General Definitions

1. "Agreement" or "Contract" means the Standard Agreement (Std. 213), Exhibits A, B, C, D and E, 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. "Contractor" means the Area Agency on Aging (AAA) awarded funds under this Agreement and 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.
3. "CCR" means California Code of Regulations.
4. "CFR" means Code of Federal Regulations.
5. "DUNS" means the nine-digit, Data Universal Numbering System number established and assigned by Dun and Bradstreet, Inc., to uniquely identify business entities.
6. "Cal. Gov. Code" means California Government Code.
7. "OMB" means the federal Office of Management and Budget.
8. "Cal. Pub. Con. Code" means the California Public Contract Code.
9. "Cal. Civ. Code" means California Civil Code
10. "Reimbursable item" also means "allowable cost" and "compensable item."
11. "State" and "Department" mean the State of California and the California Department of Aging (CDA) interchangeably.
12. "Subcontractor" means the legal entity that receives funds from the Contractor to carry out part of a federal award identified in this Agreement.
13. "Subcontract" means any form of legal agreement between the Contractor and the Subcontractor, including an agreement that the Contractor considers a contract, including vendor type Agreements for providing goods or services under this Agreement.
14. "Vendor" means an entity selling goods or services to the Contractor or Subcontractor during the Contractor or Subcontractor's performance of the Agreement.

FA-2122 Contract
Exhibit D – Special Terms and Conditions

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

15. "USC" means United States Code.
16. "HHS" means United States Department of Health and Human Services.
17. "OAA" means Older Americans Act.
18. "Allocation" means 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 200.4 and 45 CFR 75.2)
19. "Disallowed costs" means 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 200.31 and 45 CFR 75.2)
20. "Questioned Costs" means a cost that is questioned by the auditor because of an audit finding which resulted from a violation or possible violation of a 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).
21. "Recoverable cost" means the state and federal share of the questioned cost.

B. Resolution of Language Conflicts

The terms and conditions of this federal award 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.

FA-2122 Contract
Exhibit D – Special Terms and Conditions

5. 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>
6. Program memos and other guidance issued by CDA.

ARTICLE II. ASSURANCES

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

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

**FA-2122 Contract
Exhibit D – Special Terms and Conditions**

ARTICLE II. ASSURANCES (Continued)

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), 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.]

FA-2122 Contract
Exhibit D – Special Terms and Conditions

ARTICLE II. ASSURANCES (Continued)

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

FA-2122 Contract
Exhibit D – Special Terms and Conditions

ARTICLE II. ASSURANCES (Continued)

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.]

FA-2122 Contract
Exhibit D – Special Terms and Conditions

ARTICLE II. ASSURANCES (Continued)

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.

FA-2122 Contract
Exhibit D – Special Terms and Conditions

ARTICLE II. ASSURANCES (Continued)

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 AAA is required for the original and each subsequent amendment to this Agreement. This requirement may also be met by a single resolution from the Governing Board of the Contractor authorizing the AAA Director or designee to execute the original and all subsequent amendments to this Agreement.

L. Contractor's Staff

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

M. DUNS Number and Related Information

1. The DUNS number must be provided to CDA prior to the execution of this Agreement. Business entities may register for a DUNS number at <http://www.dnb.com/duns-number.html>.
2. The Contractor must register the DUNS 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 DUNS 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 DUNS number, the Contractor must immediately update the information as required.

FA-2122 Contract
Exhibit D – Special Terms and Conditions

ARTICLE II. ASSURANCES (Continued)

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.

FA-2122 Contract
Exhibit D – Special Terms and Conditions

ARTICLE II. ASSURANCES (Continued)

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, 1300 National Drive, Suite 200, Sacramento, California 95834.

ARTICLE IV. COMMENCEMENT OF WORK

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

ARTICLE V. SUBCONTRACTS

- A. 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.
- B. 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

FA-2122 Contract
Exhibit D – Special Terms and Conditions

ARTICLE V. SUBCONTRACTS (Continued)

preserving the State's copyrights and rights in data in accordance with Article XIX of this Exhibit, for handling property in accordance with Article VII. of this Exhibit, and ensuring the keeping of, access to, availability of, and retention of records of subcontractors in accordance with Article VI. of this Exhibit.

- C. The Contractor shall not obligate funds for this Agreement in any subcontracts for services beyond the ending date of this Agreement.
- D. The Contractor shall have no authority to contract for, or on behalf of, or incur obligations on behalf of the State.
- E. 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.
- F. The Contractor shall monitor the insurance requirements of its subcontractors in accordance with Article XI of this Exhibit.
- G. 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 from this Agreement were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Subcontractor(s) in the performance of this Agreement.
- H. 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.
- I. The Contractor shall, prior to the awarding of a subcontract to any for-profit entity, submit the following to CDA for review and approval:
 - 1. The Request for Proposal or Invitation for Bid.
 - 2. All bid proposals received.
 - 3. The proposal or bid evaluation documentation, along with the Contractor's rationale for awarding the subcontract to a for-profit entity. [22 CCR 7362]

FA-2122 Contract
Exhibit D – Special Terms and Conditions

ARTICLE V. SUBCONTRACTS (Continued)

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

- J. The Contractor shall require 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.
- K. If a private nonprofit corporation, the Subcontractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
- L. The Contractor shall refer to 2 CFR 200.330, 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.
- M. 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

FA-2122 Contract
Exhibit D – Special Terms and Conditions

ARTICLE VI. RECORDS (Continued)

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 has occurred and an audit resolution has been issued or unless otherwise authorized in writing by CDA's Audit 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. If the allowability of expenditures cannot be determined because records or documentation of the Contractor are nonexistent or inadequate according to guidelines set forth in 2 CFR 200.302 and 45 CFR 75.302, the expenditures will be questioned in the audit and may be disallowed by CDA during the audit resolution process.
- 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 operation of this Agreement.
 - 1. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, and intangibles, etc.

FA-2122 Contract
Exhibit D – Special Terms and Conditions

ARTICLE VII. PROPERTY (Continued)

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. Additions, improvements, and betterments to assets meeting all of the conditions in Section B above must also be reported. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments enhance the condition of an asset (e.g., extend life, increase service capacity, and lower operating costs). Examples of assets that might be improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.
- D. Intangibles are property 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.
- E. The Contractor shall keep track of property purchased with funds from this Agreement that meet the requirements 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:

FA-2122 Contract
Exhibit D – Special Terms and Conditions

1. Date acquired.
2. Item description (include model number).

ARTICLE VII. PROPERTY (Continued)

3. CDA tag number.
 4. Serial number (if applicable).
 5. Purchase cost or other basis of valuation.
 6. Fund source.
- F. 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). CDA will then instruct the AAA on disposition of the property. Once approval for disposal has been received from CDA and the AAA 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.
 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.
- G.** Any loss, damage, or theft of equipment shall be investigated, fully documented and the Contractor shall promptly notify CDA.
- H.** 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.
- I.** 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.

**FA-2122 Contract
Exhibit D – Special Terms and Conditions**

- J. 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.

ARTICLE VII. PROPERTY (Continued)

- K. 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.
- L. 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.
- M. 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.
- N. 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.
- O. If purchase of equipment is a reimbursable item, the equipment to be purchased will be specified in the Budget Summary.
- P. 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

**FA-2122 Contract
Exhibit D – Special Terms and Conditions**

- 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

ARTICLE IX. MONITORING AND EVALUATION (Continued)

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.

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 books, documents, papers, and records. 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

FA-2122 Contract
Exhibit D – Special Terms and Conditions

reproduction, on or off the premises of the appropriate entity upon a reasonable request.

ARTICLE X. AUDIT REQUIREMENTS (Continued)

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 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 200.16 and 45 CFR 75.2)
 - b. Internal controls (2 CFR 200.303 and 45 CFR 75.303)
 - c. Allocation of expenditures (2 CFR 200.4 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:

FA-2122 Contract
Exhibit D – Special Terms and Conditions

Attention: Audits Branch
1300 National Drive, Suite 200
Sacramento, California 95834

- 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 Subrecipients

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.

FA-2122 Contract
Exhibit D – Special Terms and Conditions

- 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

FA-2122 Contract
Exhibit D – Special Terms and Conditions

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:
- 1. 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

FA-2122 Contract
Exhibit D – Special Terms and Conditions

2. 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.
 - a. 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.
 - b. 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-F 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

FA-2122 Contract
Exhibit D – Special Terms and Conditions

- 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.

ARTICLE XI. INSURANCE (Continued)

- 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

FA-2122 Contract
Exhibit D – Special Terms and Conditions

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 Contract 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.

FA-2122 Contract
Exhibit D – Special Terms and Conditions

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.

ARTICLE XII. TERMINATION (Continued)

7. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the Contractor.
8. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income.
9. The commission of an act of bankruptcy.
10. Finding of debarment or suspension. [Article II J]
11. The Contractor's organizational structure has materially changed.
12. 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.

FA-2122 Contract
Exhibit D – Special Terms and Conditions

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

D. Effective Date

Termination of this Agreement shall take effect immediately in the case of an emergency such as threat to life, health, or safety of the public. 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

ARTICLE XII. TERMINATION (Continued)

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.

FA-2122 Contract
Exhibit D – Special Terms and Conditions

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 through the State amendment process in accordance with the State Contract Manual. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.
- B. The State reserves the right to revise, waive, or modify the Agreement to reflect any restrictions, limitations, or conditions enacted by Congress or the Legislature or as directed by the Executive Branch of State government.

ARTICLE XVI. NOTICES

- A. Any notice to be given hereunder by either party to the other may be effected by personal delivery in writing or by registered or certified mail, overnight mail, postage prepaid, return receipt requested, provided the Contractor retains receipt, and shall be communicated as of actual receipt.
- B. Contractor shall submit to CDA changes to Contractor's legal name or main address, by submitting a completed and signed Payee Data Record (Std. 204) to AAAcontactinfo@aging.ca.gov.
- C. All other notices with the exception of those identified in Section B of this Article shall be addressed to the California Department of Aging, AAA Based Teams, 1300 National Drive, Suite 200, Sacramento, California, 95834. Notices mailed to the Contractor shall be to the address indicated on the coversheet of this Agreement.
- D. Either party may change its address by written notice to the other party in accordance with this Article.

FA-2122 Contract
Exhibit D – Special Terms and Conditions

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.
- B. The Contractor shall submit to CDA changes to the AAA Director, or any key staff to be added or removed from the distribution list by submitting a Contact Report to AAAcontactinfo@aging.ca.gov. You may request the Contact Report by emailing AAAcontactinfo@aging.ca.gov.

ARTICLE XVIII. INFORMATION INTEGRITY, AND SECURITY

A. Information Assets

The Contractor, and its Subcontractors/Vendors, shall have in place operational policies, procedures, and practices to protect State information assets, including those assets used to store or access Personal Health Information (PHI), Personal Information (PI) and any information protected under the Health Insurance Portability and Accountability Act (HIPAA), (i.e., public, confidential, sensitive and/or personal identifying information herein referred to as Personal, Sensitive and Confidential Information (PSCI)) as specified in the State Administrative Manual, 5300 to 5365.3; Cal. Gov. Code § 11019.9, DGS Management Memo 06-12; DOF Budget Letter 06-34; and CDA Program Memorandum 07-18 Protection of Information Assets and the Statewide Health Information Policy Manual.

Information assets may be in hard copy or electronic format and may include but is not limited to:

- 1. Reports
- 2. Notes
- 3. Forms
- 4. Computers, laptops, cellphones, printers, scanners
- 5. Networks (LAN, WAN, WIFI) servers, switches, routers
- 6. Storage media, hard drives, flash drives, cloud storage
- 7. Data, applications, databases

B. Encryption of Computing Devices

The Contractor, and its Subcontractors/Vendors, are required to use 128-Bit encryption for PSCI data that is collected and stored on all computing devices (including but not limited to, workstations, servers, laptops, personal digital assistants, notebook computers and backup media) and/or portable electronic

FA-2122 Contract
Exhibit D – Special Terms and Conditions

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

C. Disclosure

1. The Contractor, and its Subcontractors/Vendors, shall ensure that all PSCI is protected from inappropriate or unauthorized access or disclosure in accordance with applicable laws, regulations and State policies.
2. The Contractor, and its Subcontractors/Vendors, shall protect from unauthorized disclosure, PSCI such as names and other identifying information concerning persons receiving services pursuant to this Agreement, except for statistical information not identifying any participant.

ARTICLE XVIII. INFORMATION INTEGRITY, AND SECURITY (Continued)

3. "Personal Identifying information" shall include, but not be limited to: name; identifying number; social security number; state driver's license or state identification number; financial account numbers; and symbol or other identifying characteristic assigned to the individual, such as finger or voice print or a photograph.
4. The Contractor, and its Subcontractors/Vendors, shall not use PSCI above for any purpose other than carrying out the Contractor's obligations under this Agreement. The Contractor and its Subcontractors are authorized to disclose and access identifying information for this purpose as required by OAA.
5. The Contractor and its Subcontractors/Vendors, shall not, except as otherwise specifically authorized or required by this Agreement or court order, disclose any identifying information obtained under the terms of this Agreement to anyone other than CDA without prior written authorization from CDA. The Contractor may be authorized, in writing, by a participant to disclose identifying information specific to the authorizing participant.
6. The Contractor, and its Subcontractors/Vendors, may allow a participant to authorize the release of information to specific entities, but shall not request or encourage any participant to give a blanket authorization or sign a blank release, nor shall the Contractor accept such blanket authorization from any participant.

D. Security Awareness Training

1. The Contractor's employees, Subcontractors/Vendors, and volunteers handling PSCI must complete the required CDA Security Awareness Training module located at <https://www.aging.ca.gov/ProgramsProviders/#Resources> within thirty (30)

FA-2122 Contract
Exhibit D – Special Terms and Conditions

days of the start date of the Contract/Agreement, within thirty (30) days of the start date of any new employee, Subcontractor, Vendor or volunteer's employment and annually thereafter.

2. The Contractor must maintain certificates of completion on file and provide them to CDA upon request.

E. Health Insurance Portability and Accountability Act (HIPAA)

The Contractor agrees to comply with the privacy and security requirements of HIPAA and ensure that Subcontractors/Vendors comply with the privacy and security requirements of HIPAA.

ARTICLE XVIII. INFORMATION INTEGRITY, AND SECURITY (Continued)

F. Contractor Confidentiality Statement

The Contractor shall sign and return an Information Integrity and Security Statement (CDA 1024) form with this Agreement. This is to ensure that the Contractor is aware of, and agrees to comply with, their obligations to protect CDA information assets, including PSCI from unauthorized access and disclosure.

G. Security Incident Reporting

A security incident occurs when CDA information assets are or reasonably believed to have been accessed, modified, destroyed, or disclosed without proper authorization, or are lost or stolen. The Contractor, and its Subcontractors/Vendors, must comply with CDA's security incident reporting procedure located at <https://www.aging.ca.gov/ProgramsProviders/#Resources>.

H. Security Breach Notifications

Notice must be given by the Contractor, and/or its Subcontractors/Vendors to anyone whose PSCI could have been breached in accordance with HIPAA, the Information Practices Act of 1977, and State policy.

I. Software Maintenance

The Contractor, and its Subcontractors/Vendors, shall apply security patches and upgrades in a timely manner and keep virus software up-to-date on all systems on which State data may be stored or accessed.

J. Electronic Backups

FA-2122 Contract
Exhibit D – Special Terms and Conditions

The Contractor, and its Subcontractors/Vendors, shall ensure that all electronic information is protected by performing regular backups of files and databases and ensure the availability of information assets for continued business. The Contractor, and its Subcontractors/Vendors, shall ensure that all data, files and backup files are encrypted.

K. Provisions of this Article

The provisions contained in this Article shall be included in all contracts of both the Contractor and its Subcontractors/Vendors.

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

B. Rights in Data

1. The Contractor shall not publish or transfer any materials, as defined in 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

FA-2122 Contract
Exhibit D – Special Terms and Conditions

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 this Agreement. The term does not include financial reports, cost analyses and similar information incidental to contract administration, or the exchange of that information between AAAs to facilitate uniformity of contract and program administration on a statewide basis.

ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA (Continued)

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.

ARTICLE XX. BILINGUAL AND LINGUISTIC PROGRAM SERVICES

A. Needs Assessment

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

The group-needs assessment shall take into account the following four (4) factors:

- a. Number or proportion of persons with Limited English Proficiency (LEP) eligible to be served or encountered by the program.
- b. Frequency with which LEP individuals come in contact with the program.
- c. Nature and importance of the services provided.
- d. Local or frequently used resources available to the Contractor.

This group-needs assessment will serve as the basis for the Contractor’s

FA-2122 Contract
Exhibit D – Special Terms and Conditions

determination of “reasonable steps” and provide documentary evidence of compliance with Cal. Gov. Code § 11135 et seq.; 2 CCR 11140, 2 CCR 11200 et seq., and 22 CCR98300 et seq.

2. The Contractor shall prepare and make available a report of the findings of the group-needs assessment that summarizes:
 - a. Methodologies used.
 - b. The linguistic and cultural needs of non-English speaking or LEP groups.
 - c. Services proposed to address the needs identified and a timeline for implementation. [22 CCR 98310]

ARTICLE XX. BILINGUAL AND LINGUISTIC PROGRAM SERVICES (Continued)

3. The Contractor shall maintain a record of the group-needs assessment on file at the Contractor’s headquarters at all times during the term of this Agreement. [22 CCR 98310, 98313]
- B. Provision of Services**
1. The Contractor shall take reasonable steps, based upon the group-needs assessment identified in Section A of this Article, to ensure that “alternative communication services” are available to non-English speaking or LEP beneficiaries of services under this Agreement. [22 CCR 11162]
 2. “Alternative communication services” include, but are not limited to, the provision of services and programs by means of the following:
 - a. Interpreters or bilingual providers and provider staff.
 - b. Contracts with interpreter services.
 - c. Use of telephone interpreter lines.
 - d. Sharing of language assistance materials and services with other providers.
 - e. Translated written information materials, including but not limited to, enrollment information and descriptions of available services and programs.
 - f. Referral to culturally and linguistically appropriate community service programs.

FA-2122 Contract
Exhibit D – Special Terms and Conditions

3. Based upon the findings of the group-needs assessment, the Contractor shall ensure that reasonable alternative communication services are available to meet the linguistic needs of identified eligible client population groups at key points of contact. Key points of contact include, but are not limited to, telephone contacts, office visits and in-home visits.
[22 CCR 11162]

The Contractor shall self-certify to compliance with the requirements of this section and shall maintain the self-certification record on file at the Contractor's office at all times during the term of this Agreement.
[22 CCR 98310]

ARTICLE XX. BILINGUAL AND LINGUISTIC PROGRAM SERVICES (Continued)

4. The Contractor shall notify its employees of clients' rights regarding language access and the Contractor's obligation to ensure access to alternative communication services where determined appropriate based upon the needs assessment conducted by the Contractor. [22 CCR 98324]
5. Noncompliance with this section may result in suspension or termination of funds and/or termination of this Agreement. [22 CCR 98370]

C. Compliance Monitoring

1. The Contractor shall develop and implement policies and procedures for assessing and monitoring the performance of individuals and entities that provide alternative communication services to non-English and LEP clients. [22 CCR 98310]
2. The Contractor shall monitor, evaluate, and take effective action to address any needed improvement in the delivery of culturally and linguistically appropriate services. [22 CCR 98310]
3. The Contractor shall permit timely access to all records of compliance with this section. Failure to provide access to such records may result in appropriate sanctions. [22 CCR 98314]

D. Notice to Eligible Beneficiaries of Contracted Services

1. The Contractor shall designate an employee to whom initial complaints or inquiries regarding national origin can be directed. [22 CCR 98325]
2. The Contractor shall make available to ultimate beneficiaries of contracted services and programs information regarding CDA's procedure for filing a

FA-2122 Contract
Exhibit D – Special Terms and Conditions

complaint and other information regarding the provisions of Cal. Gov. Code § 11135 et seq. [22 CCR 98326]

3. The Contractor shall notify CDA immediately of a complaint alleging discrimination based upon a violation of State or federal law. [2 CCR 11162, 22 CCR 98310, 98340]

FA-2122 Contract
Exhibit E – Additional Provisions

ARTICLE I. ASSURANCES SPECIFIC TO THE FA-2122 CONTRACT

- A. The Contractor shall assure that the following conditions are met:
1. Services are provided to the Eligible Service Population as defined in Exhibit A, Article I, I., of this Contract.
 2. Staffing shall be adequate to ensure all contract requirements and timelines of the Project are met.
 3. The Program Manager for HICAP has general oversight of the FA services and sole authority to recommend persons to file industry complaints and refer FA clients to legal services.
 4. All persons affiliated with the Project and who are counseling, including paid personnel and volunteers, are trained and registered with the State as HICAP Counselors in accordance with laws, regulations, and the HICAP Program Manual.
- B. The Contractor shall assure compliance with the State Conflict of Interest Requirements as they pertain to Project services as follows:
1. The Contractor shall assure that Project staff and volunteers do not engage in the solicitation of insurance; nor endorse any Medicare supplement, long-term care, or other insurance policies or plans; nor endorse the services of any insurer or managed care plan, claims processing organization, or other enterprise that could benefit from activities conducted during the Project. All Project staff and volunteers shall provide FA educational services in a manner that is objective and impartial and provide counseling consistent with the best interests of the clients and which preserves the independent decision-making responsibilities of the client.
 2. The Contractor shall assure that the Project, Project staff, and volunteers shall not have a conflict of interest such as, but not limited to, a business relationship with insurers, health plans, or organizations posing a conflict of interest. The Contractor shall assure that Project staff and volunteers do not accept money or gifts from the clientele in exchange for services in accordance with CDA guidance on conflict of interest and the HICAP Program Manual.
 3. The Contractor shall take all reasonable and necessary measures to assure that advisors, employees, and volunteers associated with Project operation agree to act in a manner so as to prevent the appearance of impropriety, or any other act which would place in jeopardy HICAP's reputation as an independent and impartial program. The Contractor shall

ARTICLE I. ASSURANCES SPECIFIC TO THE FA-2021 CONTRACT (Continued)

ensure that advisors and governing board members shall recuse themselves from the affairs of the Project if they are employed by, or receive compensation from, the health insurance or managed health care industries. This shall not preclude the Contractor from soliciting program contributions from entities that do not pose a conflict of interest.

- C. This Agreement is subject to the requirements of the Grant Notice of Award for Funding Opportunity Number CMS-1J1-19-001 (Support for Ombudsman and Beneficiary Counseling Programs for States Participating in Financial Alignment Model Demonstrations for Dually Eligible Individuals).

By receiving funds under this Agreement, the Contractor agrees that it will carry out the project/program as authorized and will comply with the terms and conditions and other requirements of this Agreement, including but not limited to:

1. Trafficking Victims Protection Act of 2000
 - a. This Agreement is subject to the requirement of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104).
 - b. Violation of this Act by the Contractor and Subcontractor may result in termination of this award.

2. Implementation of United States v. Windsor and Interpretation of Familial Relationship Terminology

In any contract-related activity in which family, marital, or household considerations are, by statute or regulation, relevant for purposes of determining beneficiary eligibility or participation, contractors must treat same-sex spouses, marriages, and households on the same terms as opposite-sex spouses, marriages, and households, respectively.

3. Employee Whistleblower Protections

All contractors and subcontractors must inform their employees in writing of employee whistleblower rights and protections under 41 U.S.C. 4712 in the predominant native language of the workforce.

4. Fraud, Waste, and Abuse

The HHS Office of the Inspector General (OIG) maintains a toll-free number (1-800-HHS-TIPS [1-800-447-8477]) for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements.

ARTICLE I. ASSURANCES SPECIFIC TO THE FA-2021 CONTRACT (Continued)

5. Subaward Reporting and Executive Compensation

This award is subject to the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by Section 6202 of Public Law 110—252 and implemented by 2 CFR Part 170.

- a. The Contractor shall report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub.L. 111-5), no later than the end of the month following the month in which the obligation was made. Each obligating action in this award term must be reported through <http://www.fsrs.gov/>.
- b. The Contractor shall report the names and total compensation of its top five (5) most highly compensated executives for the preceding fiscal year, no later than thirty (30) days after the execution of this Agreement, if –
 - i. in the Contractor's preceding fiscal year, the Contractor received –
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

ARTICLE I. ASSURANCES SPECIFIC TO THE FA-2021 CONTRACT (Continued)

The Contractor is exempt from reporting Total Compensation of Executives if the Contractor's gross income from all federal contracts and subcontracts is under \$300,000.

6. Project and Data Integrity

Contractor shall protect the confidentiality of all project-related information that includes personally identifying information.

7. Public Policy Requirements

By signing the contract, the authorized organizational official certifies that the organization will comply with applicable public policies.

8. Mandatory Disclosures

As is stated under 45 CFR §75.113, Contractor must disclose, in a timely manner, in writing to CDA and the HHS Office of Inspector General (OIG) all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Disclosures must be sent to CDA and the HHS OIG at the following addresses

California Department of Aging
ATTN: Mandatory Grant Disclosures, HICAP Team
1300 National Drive, Suite 200
Sacramento, CA 95834

And,

U.S. Department of Health & Human Services Office of Inspector General
ATTN: Mandatory Grant Disclosures, Intake Coordinator
330 Independence Avenue, SW, Cohen Building
Room 5527
Washington, DC 20201

Include "Mandatory Grant Disclosures" in subject line.
Email: GrantDisclosures@oig.hhs.gov

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371

ARTICLE I. ASSURANCES SPECIFIC TO THE FA-2021 CONTRACT (Continued)

9. Publications

- a. Ensure that all publications, press announcements, posters, oral presentations at meetings, seminars, and any other information-dissemination format, including, but not limited to, electronic/digital media that is related to this Project include a formal acknowledgement of support from the Department of Health and Human Services, citing the Funding Opportunity Number as follows: **"The project described was supported by Funding Opportunity Number CMS-1J1-19-001 from the U.S. Department of Health & Human Services, Centers for Medicare & Medicaid Services, Center for Medicare & Medicaid Innovation."** Contractor must also include a disclaimer stating that **"The contents provided are solely the responsibility of the authors and do not necessarily represent the official views of HHS or any of its agencies."**
- b. Submit one copy of each publication resulting from work performed under this agreement, regardless of format, to CDA with the Semi-Annual Progress Reports and Final Report.
- c. Use the SHIP logo and tagline on all program materials developed for public use.
- d. Provide upon request, at any time during the contract period, materials, systems, or other items used, developed, refined or enhanced in the course of this Agreement to CDA. Ensure that CMS shall have a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use and authorize others to use the items for federal government purposes.

10. CMS Program Monitoring

The Contractor and, if applicable, the HICAP subcontractor shall cooperate in any site visits conducted by CMS or its designee(s), in technical assistance provided by ACL, and with CMS contractors supporting the implementation of the demonstration. The recipient shall provide data needed to assess the impact of the program activities demonstration in accordance with the MOU. CMS shall retain full rights to use such data and information to disseminate successful care coordination techniques, including factors associated with performance, to other providers and suppliers and the public and to evaluate the demonstration.

ARTICLE I. ASSURANCES SPECIFIC TO THE FA-2021 CONTRACT (Continued)

11. Supplanting of Funds

The Contractor is responsible for ensuring that no federal funds provided under this award are used to fund the same services or activities otherwise funded by the Federal government through any other funding mechanisms, such as any cooperative agreements for the Implementation Support for State Demonstrations to Integrate Care for Medicare-Medicaid Enrollees, State Innovation Models, or other federal support for ombudsman services.

12. Adherence to Program Requirements

The Contractor shall adhere to all requirements and activities included in the Contract, unless otherwise approved by CDA. All terms and conditions also apply to HICAP subcontractors and any individuals or entities performing functions or services on behalf of the Contractor. Failure to do so may lead to termination of this Contract.

13. Prior Approval

CDA may require prior approval and may control the location, cost, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar workshop or conference conducted by the Contractor in relation to the program funded through this Contract. CDA may also maintain control over any reimbursable publicity, or education materials to be made available for distribution.

14. Residual Unused Supplies

Reportable Residual Unused Supplies, which in the aggregate exceed \$5,000 in fair market value must be retained by the Recipient for use on other activities or sold, but the Contractor must, in either case, compensate CDA and the Federal government for its share. CMS is entitled to an amount calculated by multiplying the current fair market value or proceeds from sale by CMS's percentage of participation in the cost of the original purchase. Further instructions will be provided prior to closeout.

15. Recipient Integrity and Performance

In accordance with Appendix XII to 45 CFR Part 75, Recipient must comply with reporting requirements for matters related to recipient integrity and performance.

ARTICLE I. ASSURANCES SPECIFIC TO THE FA-2021 CONTRACT (Continued)

Contractor acknowledges that CDA may be required to maintain the currency of information in the Federal Awardee Performance and Integrity Information System (FAPIIS). Contractor agrees to submit the following information to CDA within 30 days when in connection with the performance of this contract:

- a. A criminal proceeding
- b. A civil proceeding that results in a monetary fine, penalty, reimbursement, restitution, or damages
- c. An administrative proceeding that results in a monetary fine, penalty, reimbursement, restitution, or damages
- d. Any other criminal, civil or administrative proceeding that could have resulted in a fine, penalty, reimbursement, restitution, or damages

16. Financial Alignment Conflict of Interest Policy

In accordance with 45 CFR 75.112, these terms and conditions establish the conflict of interest policy requirements for recipients receiving federal discretionary grant funding from CMS.

- a. CMS requires recipients to establish safeguards to prevent employees, officers, or agents of the non-Federal entity such as consultants, contractors, members of governing bodies, and others who may be involved in grant-supported activities from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private financial or other gain for themselves or others, such as those with whom they have family, business, or other ties. These safeguards must be reflected in written standards of conduct. Except as provided below, CMS does not require a recipient to establish separate standards of conduct if it maintains such standards for its non-grant-supported activities, as long as those standards are consistent with State, local, and tribal laws and regulations, and cover, at a minimum, expected conduct in regard to financial interests, gifts, gratuities and favors, nepotism, and such other areas for governmental organizations as political participation and bribery.
- b. The Recipient must also maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts in accordance with §75.327 General procurement standards. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.

ARTICLE I. ASSURANCES SPECIFIC TO THE FA-2021 CONTRACT (Continued)

Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest.

17. Accessibility Provisions Section 504

Recipients of federal financial assistance from Health and Human Services must administer their programs in compliance with federal civil rights laws. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age and, in some circumstances, sex and religion.

In addition, recipients of federal financial assistance have specific legal obligations for serving qualified individuals with disabilities by providing information in alternate formats.

1. Public Notification: If you have a public facing website, you shall post a message no later than 30 business days after award that notifies your customers of their right to receive an accessible format. Sample language may be found at:
<https://www.medicare.gov/about-us/accessibility-nondiscrimination-notice>.

Your notice shall be crafted applicable to your program.

2. Processing Requests Made by Individuals with Disabilities:
 - a. Documents:

ARTICLE I. ASSURANCES SPECIFIC TO THE FA-2021 CONTRACT (Continued)

- i. When receiving a request for information in an alternate format (e.g., Braille, Large print, etc.) from a beneficiary or member of the public, you must:
 - (A) Consider/evaluate the request according to civil rights laws.
 - (B) Acknowledge receipt of the request and explain your process within 2 business days.
 - (C) Establish a mechanism to provide the request.
- ii. If you are unable to fulfill an accessible format request, CDA may work with you in an effort to provide the accessible format. You shall refer the request to CDA within 2 business days if unable to provide the request. You shall submit the request, using encrypted e-mail (to safeguard any personally identifiable information), to the CDA.HICAP.Team@aging.ca.gov mailbox with the following information:
 - (A) The e-mail title shall read "Grantee (Organization) Alternate Format Document Request."
 - (B) The body of the e-mail shall include:
 - 1) Requester's name, phone number, e-mail, and mailing address.
 - 2) The type of accessible format requested, e.g., audio recording on compact disc (CD), written document in Braille, written document in large print, document in a format that is read by qualified readers, etc.
 - 3) Contact information for the person submitting the e-mail – Organization (Grantee), name, phone number and e-mail.
 - (C) The document that needs to be put into an accessible format shall be attached to the e-mail.
- iii. CMS may respond to the request and provide the information directly to the requester.

ARTICLE I. ASSURANCES SPECIFIC TO THE FA-2021 CONTRACT (Continued)

iv. The Contractor and/or HICAP subcontractor shall maintain record of all alternate format requests received including the requestor's name, contact information, date of request, document requested, format requested, date of acknowledgment, date request provided, and date referred to CDA if applicable.

b. Processing Requests Made by Individuals with Limited English Proficiency (LEP):

i. Refer to Exhibit D, Article XX.B Provision of Services

18. Subrecipient Equal Treatment

The Contractor must comply with 45 CFR Part 87, including the provision that no State or local government Recipient nor any intermediate organization receiving funds under any program shall, in the selection of service providers, discriminate for or against an organization's religious character or affiliation.

19. FY 2016 Appropriations Provision

Contractors must comply with all terms and conditions outlined in their Contract, including grant policy terms and conditions contained in applicable HHS Grants Policy Statements, and requirements imposed by program statutes and regulations, Executive Orders, and HHS grant administration regulations, as applicable; as well as any requirements or limitations in any applicable appropriations acts.

This award is subject to the "Consolidated Appropriations Act, 2016," Public Law 114-113, signed on December 18, 2015. As is noted under Division H, Title II, General Provisions, Section 202, none of the funds appropriated in this title shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level II. This salary cap applies to direct salaries and to those salaries covered under indirect costs, also known as facilities and administrative (F & A) costs].

20. Termination of Funding

Continued funding to a recipient is dependent on satisfactory performance against goals and performance expectations delineated in the cooperative agreement's terms and conditions. CMS reserves the right to terminate

ARTICLE I. ASSURANCES SPECIFIC TO THE FA-2021 CONTRACT (Continued)

the cooperative agreement if it is determined to be in the Government's best interests, such is if the associated demonstration does not meet the requirements in 1115A of the Social Security Act [42 USC 1315 (a)(b)(3)(B)].

21. Intellectual Property

Contractors under this solicitation must comply with the provisions of 45 CFR § 75.322, Intangible property and copyrights. The Contractor may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. CDA and the Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. The Contractor is subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401.

In accordance with 45 CFR §75.112, all award recipients receiving federal funding from CMS must establish and comply with the conflict of interest policy requirements outlined by CMS (available upon request).

ARTICLE II. REPORTING PROVISIONS

The Contractor shall ensure that program performance data is entered into the State HICAP Automated Reporting Program (SHARP) in accordance with CDA requirements [Welf. & Inst. Code §9541(c)(8)]. Data entered must be timely, complete, accurate, and verifiable.

- A. The Contractor shall review and approve program performance data entered into SHARP.
- B. The Contractor shall provide the following reports in accordance with the report schedules outlined below.
 - 1. **Monthly Data Element Reports:** Contractors are required to track and enter required data elements (see section C below) on a monthly basis using SHARP. The Contractor shall certify to the Contractor's assigned CDA HICAP Team Analyst that the Contractor has reviewed and approved the data by the 15th day of each month following the reporting period for the length of this Agreement, as follows:

FA-2122 Contract
Exhibit E – Additional Provisions

ARTICLE II. REPORTING PROVISIONS (Continued)

Reporting Period	Due Date
January 1 – January 31	February 15
February 1 – February 28/29	March 15
March 1 – March 31	April 15
April 1 – April 30	May 15
May 1 – May 31	June 15
June 1 – June 30	July 15
July 1 – July 31	August 15
August 1 – August 31	September 15
September 1 – September 30	October 15
October 1 – October 31	November 15
November 1 – November 30	December 15
December 1 – December 31	January 15

2. **Semi-Annual Progress Reports:** Semi-Annual progress reports are due on a date specified by CDA.
 3. **Final Narrative Report:** A final report is required at the end of the term of the agreement with a reporting period inclusive of the full contract period. The Final Narrative Report shall be due on a date specified by the CDA.
- C. The Contractor shall provide the following minimum required data elements for monthly reporting in SHARP:
1. Number of HICAP counselors serving dual eligible beneficiaries by zip code and county.
 2. Number of HICAP counselors trained on the financial alignment demonstration by zip code and county.
 3. Number of client intakes where the “Duals Demonstration” field is selected in the “topics discussed” section.
 4. Number of public and media events where the “Duals Demonstration” field is selected in the “primary focus topic” section.
- D. The Contractor shall provide the following information in all narrative reports (semiannual progress, final), and summarize progress against milestones identified in the work plan:
1. Program name
 2. Project key staff and contact information
 3. Reporting period

ARTICLE II. REPORTING PROVISIONS (Continued)

4. Budget status – describing how grant funds were used during the reporting period, include amounts for planned expenditure, actual expenditure, and deficit/surplus
 5. Work plan and timeline update, including documentation of progress against projected goals identified in the work plan
 6. Accomplishments – Tasks that were accomplished during this reporting period, and Analysis of challenges during the reporting period
 7. Best practices or key lessons, including recommendations for improvements in the demonstration
 8. Projected goals
 9. Mitigation strategies – for addressing barriers during the next 6 month period
 10. Trends or lessons learned affecting the Eligible Service Population.
- E. The Contractor shall provide the following information upon request from CDA:
1. A list of Project partners, their role(s), and expected partnership outcome(s).
 2. Confirmation of a Memorandum of Understanding (MOU) and/or contract being in place with such partners.
- F. CDA reserves the right to modify performance reporting terms and conditions to ensure compliance with federal government guidelines and requirements.
- G. The Contractor and, if applicable, HICAP subcontractor shall provide ongoing ad hoc status updates at the request of CDA.

ARTICLE III. CONTINUITY OF SERVICE AND TRANSITION PLAN

- A. In the event of a change in HICAP subcontractors, the Contractor shall assure that a subsequent HICAP subcontractor is available to complete any open cases or transactions during the transition period. This shall include referrals for appeals and timelines as specified in CCI Project regulations.
- B. The Contractor shall submit a transition plan to CDA within fifteen (15) days of CDA's written Notice of Termination or Contractor's Notice of Intent to Terminate. The transition plan must be approved by CDA and shall at a minimum include the following:
1. A description of how open or active counseling and legal cases (if applicable) shall be transitioned to the new Contractor.

FA-2122 Contract
Exhibit E – Additional Provisions

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

2. A description of how names, addresses, and telephone numbers of current clients will be handled and transferred to the new Contractor.
 3. A description of how clients will be notified about the change in, and continuation of, their HICAP services.
 4. A description of how communications with other HICAP sites, local agencies and advocacy organizations shall be made to assist in locating alternative services as needed.
 5. A description of how community referral sources will be informed of the pending termination of this HICAP contract or subcontract and the transition and provision of services.
 6. A description of how sensitive and confidential records will be transferred.
 7. A description of how staff adequate to providing continued service through the term of the existing contract will be maintained.
[22 CCR 7206(e)(4)]
 8. A plan to complete a property inventory and transfer, or return to CDA all equipment purchased with FA-2122 Contract funds as directed by CDA.
 9. Additional information as necessary to effect a safe transition of clients from the outgoing Contractor or Subcontractor to the new Contractor or Subcontractor.
- C. The Contractor shall require a subcontractor, in the event of a change of a HICAP subcontractor providing services, either as a result of a routine procurement process or a subcontract termination, to submit a transition plan to the Contractor upon written Notice of Termination by the Contractor or Notice of Intent to Terminate by the Subcontractor. The Contractor shall submit the transition plan to CDA at least fifteen (15) days prior to the termination of the subcontract, in accordance with Exhibit E, Article III of this Agreement. The transition plan must be approved by CDA prior to implementation.
- D. The Contractor shall implement the transition plan as approved by CDA.
- E. CDA will monitor the Contractor's progress in carrying out all elements of the transition plan.

ARTICLE IV. FUNDING RESTRICTIONS

A. Funds may not be used for the following purposes:

1. Expending funds for any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any state government, state legislature or local legislature or legislative body. Contractors may lobby at their own expense if they can segregate federal funds from other financial resources used for that purpose.
2. Continuing existing projects without expansion or new and innovative approaches.
3. Technology projects/data systems (excluding equipment, e.g., laptop, PC).
4. Matching any other Federal funds.
5. Satisfying State matching requirements.
6. Providing services, equipment, or support that are the legal responsibility of another party under Federal or State law (such as vocational rehabilitation or education services), including civil rights laws. Such legal responsibilities include, but are not limited to, modifications of a workplace or other reasonable accommodations that are a specific obligation of the employer or other party.
7. Supplanting existing State, local, or private funding for infrastructure or services, such as staff salaries, equipment, etc.
8. Covering any pre-award costs.
9. Providing goods or services that are not in the project's approved budget or approved workplan.
10. Covering capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life as a direct cost except with the prior written approval of the Federal awarding agency.
11. The cost of independent research and development, including their proportionate share of indirect costs, is unallowable [45 CFR 75.476].
12. Providing any and all services through the Financial Alignment Initiative, that are duplicative of funds or services authorized under other Federal initiatives.
13. To pay for construction.

ARTICLE IV. FUNDING RESTRICTIONS (Continued)

14. Except for grants awarded under the Small Business Innovative Research (SBIR) and Small Business Technology Transfer Research (STTR) programs (15 U.S.C. 638), no HHS funds may be paid as profit to any recipient even if the recipient is a commercial (for-profit) organization. Profit is any amount in excess of allowable direct and indirect costs. (45 CFR 75.216(b)).