

**STANDARD AGREEMENT AMENDMENT**

STD. 213 A (Rev 6/03)

 CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED 42 Pages

AGREEMENT NUMBER <b>HI-1718-08</b>	AMENDMENT NUMBER <b>1</b>
REGISTRATION NUMBER	

1. This Agreement is entered into between the State Agency and Contractor named below:
- STATE AGENCY'S NAME  
California Department of Aging
- CONTRACTOR'S NAME  
County of San Mateo
2. The term of this Agreement is July 1, 2017 through June 30, 2020
3. The maximum amount of this **\$ 882,214**  
Agreement after this amendment is: Eight hundred eighty-two thousand two hundred fourteen and 00/100 dollars
4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

This amendment decreases funds provided to the Contractor by \$-47,517.

The attached Budget Display page 9 dated 1/1/2018, hereby replaces the Original Exhibit B - Budget Display, page 9 dated 7/1/2017. The Budget, Amendment 1 is hereby incorporated by reference and replaces the original Budget.

This amendment changes contract language in Exhibit B, Article VI. D - Closeouts and Exhibit D, Articles XVI, B - Notices and Article XVII B - Department Contacts. Specific language changes are detailed on the Contract Summary of Changes for HICAP Amendment 1 (HI-1718-A1) document posted on CDA's website.

The Exhibit B, Amendment 1 hereby replaces the original Exhibit B.  
The Exhibit D, Amendment 1 hereby replaces the original Exhibit D.

All other terms and conditions shall remain the same.

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

<b>CONTRACTOR</b>		<b>CALIFORNIA</b> Department of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) County of San Mateo		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS 225 37th Ave, Room 140 San Mateo CA 94403-4324		
<b>STATE OF CALIFORNIA</b>		
AGENCY NAME California Department of Aging		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Glenn Wallace, Manager, Contracts and Business Services Section		<input checked="" type="checkbox"/> Exempt per: Older Californians Act
ADDRESS 1300 National Drive, Ste. 200, Sacramento, CA 95834		

**Budget Detail, Payment Provisions, and Closeout – Exhibit B  
HI 1718 Contract Amendment 1**

ARTICLE I. FUNDS

A. Expenditure of Funds

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

In State:

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

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

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. [2 CCR 599.615 et seq.]

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.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B  
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ARTICLE I. FUNDS (Continued)

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]

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.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B  
HI 1718 Contract Amendment 1**

ARTICLE I. FUNDS (Continued)

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.

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.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B  
HI 1718 Contract Amendment 1**

ARTICLE I. FUNDS (Continued)

- 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.
- 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.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B  
HI 1718 Contract Amendment 1**

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.
  - 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.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B  
HI 1718 Contract Amendment 1**

ARTICLE II. BUDGET AND BUDGET REVISION (Continued)

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)]

ARTICLE III. PROGRAM SPECIFIC FUNDS

A. Program Income

1. No Program Income is required under the terms and conditions of this Agreement.
2. No fees may be charged for services although contributions or donations may be requested. Signs and literature about HICAP services may indicate that donations are welcome and may suggest donation amounts. HICAP clients are not to be pressured to make donations. All contributions or donations, either in cash or in goods and services, provided specifically to the HICAP, shall be spent on activities related to HICAP. Voluntary contributions received from a client or responsible party for services rendered by HICAP shall be reported as Program Income. (Applicable to HICAP program only.)

**Budget Detail, Payment Provisions, and Closeout – Exhibit B  
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ARTICLE III. PROGRAM SPECIFIC FUNDS

B. One-Time-Only (OTO) Funds

OTO funds, if any, are non-transferable between funding sources and are to be used for the purposes for which they were originally allocated. This means that OTO funds can only be used in the program in which they were accrued.

C. Matching Contributions

No match is required under the terms and conditions of this Agreement.

D. Administration

Contractor Administration shall be no more than ten percent (10%) of the total program allocation.

ARTICLE IV. PROGRAM SPECIFIC BUDGET AND BUDGET REVISION

A. The Contractor shall submit electronically the original HICAP Budget with the annual updates by May 1, unless otherwise instructed by CDA..

B. The Contractor shall submit electronically a budget revision thirty (30) days after receiving an amended Budget Display with changes in funding levels, unless otherwise instructed by CDA.

C. The final date to submit a budget revision is March 1<sup>st</sup> of the Contract period unless otherwise specified by CDA. CDA will not accept any budget revision after the Contract period has expired.

D. Line Item Budget Transfers

The Contractor may transfer contract funds between line items under the following terms and conditions:

1. The Contractor shall submit a revised budget to CDA for any line item budget transfer of funds that is ten percent (10%) or more of the total budget.

2. The Contractor shall maintain a written record of all budget changes and clearly document line item budget changes. The record shall include the date of the transfer, the amount, and the purpose. This record shall be available to CDA upon request and shall be maintained in the same manner as all other financial records.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B  
HI 1718 Contract Amendment 1**

ARTICLE IV. PROGRAM SPECIFIC BUDGET AND BUDGET REVISION (Continued)

- E. In the event that programs are changed from direct services to contracted services or contracted services to direct services, the Contractor shall submit a revised budget to CDA, prior to implementation of said change. An amendment to this Agreement shall be required in accordance with Exhibit D, Article XV.

ARTICLE V. PAYMENT

- A. The Contractor shall prepare and submit a monthly expenditure report in an electronic format as instructed by CDA by the 30<sup>th</sup> of each month.
- B. Payments will be made to reimburse expenditures reported unless payment method was established as a Request for Funds basis for the contract term at the time of contract execution.
- C. During the Contract period, requests to expedite payments shall be reviewed and based on an analysis of the Contractor's need to provide services.

ARTICLE VI. 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.

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

**Special Terms and Conditions - Exhibit D  
HI 1718 Contract Amendment 1**

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.

**Special Terms and Conditions - Exhibit D  
HI 1718 Contract Amendment 1**

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 American Act.

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 American Act and other applicable federal statutes and their implementing regulations.
3. If applicable, the Older Californians Act and other California State codes and regulations.
4. Standard Agreement (Std. 213), all Exhibits and any amendments thereto.
5. 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.

**Special Terms and Conditions - Exhibit D  
HI 1718 Contract Amendment 1**

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.]

**Special Terms and Conditions - Exhibit D  
HI 1718 Contract Amendment 1**

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.

**Special Terms and Conditions - Exhibit D**  
**HI 1718 Contract Amendment 1**

ARTICLE II. ASSURANCES (Continued)

G. Payroll Taxes and Deductions

The Contractor shall promptly forward payroll taxes, insurances, and contributions, including State Disability Insurance, Unemployment Insurance, Old Age Survivors Disability Insurance, and federal and State income taxes withheld, to designated governmental agencies as required by law.

H. Facility Construction or Repair

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

1. When applicable for purposes of construction or repair of facilities, the Contractor shall comply with the provisions contained in the following and shall include such provisions in any applicable agreements with subcontractors:
  - a. Copeland "Anti-Kickback" Act. [18 USC 874, 40 USC 3145]  
[29 CFR 3]
  - b. Davis-Bacon Act. [40 USC 3141 et seq.] [29 CFR 5]
  - c. Contract Work Hours and Safety Standards Act. [40 USC 3701 et seq.] [29 CFR 5, 6, 7, 8]
  - d. Executive Order 11246 of September 14, 1965, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 of October 13, 1967, as supplemented in Department of Labor Regulations. [41 CFR 60]
2. Payments are not permitted for construction, renovation, alteration, improvement, or repair of privately-owned property which would enhance the owner's value of such property except where permitted by law and by CDA.
3. When funding is provided for construction and non-construction activities, the Contractor must obtain prior written approval from CDA before making any fund or budget transfers between construction and non-construction.

**Special Terms and Conditions - Exhibit D  
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ARTICLE II. ASSURANCES (Continued)

I. Contracts in Excess of \$100,000

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

1. Clean Air Act, as amended. [42 USC 7401]
2. Federal Water Pollution Control Act, as amended. [33 USC 1251 et seq.]
3. Environmental Protection Agency Regulations. [40 CFR 29] [Executive Order 11738]
4. State Contract Act [Cal. Pub. Con. Code §10295 et seq.]
5. Unruh Civil Rights Act [Cal. Pub. Con. Code § 2010]

J. Debarment, Suspension, and Other Responsibility Matters

1. The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors:
  - a. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.
  - b. Have not, within a three-year period preceding this Agreement, been convicted of, or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
  - c. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification.
  - d. Have not, within a three-year period preceding this Agreement, had one or more public transactions (federal, State, or local) terminated for cause or default.

**Special Terms and Conditions - Exhibit D  
HI 1718 Contract Amendment 1**

ARTICLE II. ASSURANCES (Continued)

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

K. Agreement Authorization

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

**Special Terms and Conditions - Exhibit D  
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ARTICLE II. ASSURANCES (Continued)

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.

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.

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ARTICLE II. ASSURANCES (Continued)

2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.
  3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including contracts under grants, loans, and cooperative agreements which exceed \$100,000) and that all subcontractors shall certify and disclose accordingly.
  4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.
  5. This certification is a prerequisite for making or entering into this transaction imposed by 31 USC 1352.
  6. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- P. The Contractor and its Subcontractor/Vendors shall comply with Governor's Executive Order 2-18-2011, which bans expenditures on promotional and marketing items colloquially known as "S.W.A.G." or "Stuff We All Get."

ARTICLE III. AGREEMENT

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

ARTICLE IV. COMMENCEMENT OF WORK

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

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

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ARTICLE V. SUBCONTRACTS (Continued)

- 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]

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).

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ARTICLE VI. RECORDS

- A. The Contractor shall maintain complete records which shall include, but not be limited to, accounting records, contracts, agreements, a reconciliation of the "Financial Closeout Report" (CDA Closeout) to the audited financial statements, single audit report, and general ledgers, and a summary worksheet identifying the results of performing an audit resolution of its subcontractors in accordance with Article X. of this Exhibit. This includes the following: Letters of Agreement, insurance documentation, memorandums and/or Letters of Understanding, patient or client records, and electronic files of its activities and expenditures hereunder in a form satisfactory to CDA. All records pertaining to this Agreement must be made available for inspection and audit by the State or its duly authorized agents, at any time during normal business hours.
- B. All such records, including confidential records, must be maintained and made available by the Contractor: (1) until an audit 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.

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ARTICLE VII. PROPERTY

- A. Unless otherwise provided for in this Article, property refers to all assets used in operation of this Agreement.
1. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, and intangibles, etc.
  2. Property does not include consumable office supplies such as paper, pencils, toner cartridges, file folders, etc.
- B. Property meeting all of the following criteria is subject to the reporting requirements:
1. Has a normal useful life of at least one (1) year.
  2. Has a unit acquisition cost of at least \$500 (a desktop or laptop setup, including all peripherals is considered a unit, if purchased as a unit).
  3. Is used to conduct business under this Agreement.
- C. Additions, improvements, and betterments to assets meeting all of the conditions in Section B above must also be reported. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments enhance the condition of an asset (e.g., extend life, increase service capacity, and lower operating costs). Examples of assets that might be improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.
- D. Intangibles are property 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, and submit to CDA annually with the Closeout, in electronic form, a cumulative inventory of all property furnished or purchased by either the Contractor or the Subcontractor with funds awarded under the terms of this Agreement or any predecessor Agreement for the same purpose. The Contractor shall use the electronic version of the Report of Property Furnished/Purchased with Agreement Funds (CDA 32) to report property to CDA, unless otherwise directed by CDA.

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ARTICLE VII. PROPERTY (Continued)

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

1. Date acquired.
2. Item description (include model number).
3. CDA tag number or other tag identifying it as State of California property.
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 items with a unit cost of \$500 or more. Disposition, which includes sale, trade-in, discarding, or transfer to another agency may not occur until approval is received from CDA. The Contractor shall email to CDA the electronic version of the Request to Dispose of Property (CDA 248). CDA will then instruct the AAA on disposition of the property. Once approval for disposal has been received from CDA, the item(s) shall be removed from the Contractor's inventory report.
2. The Contractor must remove all confidential, sensitive, or personal information from CDA property prior to disposal, including removal or destruction of data on computing devices with digital memory and storage capacity. This includes, but is not limited to magnetic tapes, flash drives, personal computers, personal digital assistants, 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.

**Special Terms and Conditions - Exhibit D  
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ARTICLE VII. PROPERTY (Continued)

- 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.
- 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.

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**ARTICLE IX. MONITORING AND EVALUATION**

- A. Authorized State representatives shall have the right to monitor and evaluate the Contractor's administrative, fiscal and program performance pursuant to this Agreement. Said monitoring and evaluation may include, but is not limited to, administrative processes, fiscal, data and procurement components. This will include policies, procedures, procurement, audits, inspections of project premises, interviews of project staff and participants, and when applicable, inspection of food preparation sites.
- B. The Contractor shall cooperate with the State in the monitoring and evaluation processes, which include making any administrative, program and fiscal staff available during any scheduled process.
- C. The Contractor shall monitor contracts and subcontracts to ensure compliance with laws, regulations, and the provisions of contracts that may have a direct and/or material effect on each of its CDA funded programs.
- D. The Contractor is responsible for maintaining supporting documentation including financial and statistical records, contracts, subcontracts, monitoring reports, and all other pertinent records until an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by CDA.

**ARTICLE X. AUDIT 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; and 2 CFR 200.501 to 200.521 [formerly OMB Circular A-133]. A copy shall be submitted to the:

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

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.

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.

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.

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ARTICLE X. AUDIT REQUIREMENTS (Continued)

- B. 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.
- C. The Contractor shall, at a minimum, perform Contract resolution within fifteen (15) months of the "Financial Closeout Report."
- D. The Contractor shall have the responsibility for resolving its contracts with subcontractors to determine whether funds provided under this Agreement are expended in accordance with applicable laws, regulations, and provisions of contracts or agreements.

Contract resolution includes:

1. Ensuring that 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 [formerly OMB Circular A-133] as summarized in Section D and E of this Article.
2. 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.
3. 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], documented review of financial statements, and documented expense verification, including match, etc.).
4. 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.

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ARTICLE X. AUDIT REQUIREMENTS (Continued)

- 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, Subpart E - Cost Principles.  
  
[2 CFR 200.302]
- 5. The Contractor shall document system and expense testing to show an acceptable level of reliability, including a review of actual source documents.
  - 6. Determining whether the results of the reconciliations performed necessitate adjustment of the Contractor's own records.
- E. The Contractor shall ensure that subcontractor single audit reports meet 2 CFR 200, Subpart F - Audit Requirements [formerly OMB Circular A-133] requirements:
- 1. Performed timely – not less frequently than annually and a report submitted timely. The audit is required to be submitted within 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]
  - 2. Properly procured – use procurement standards for auditor selection. [2 CFR 200.509]
  - 3. Performed in accordance with Generally Accepted Government Auditing Standards. [2 CFR 200.514]
  - 4. All inclusive – includes an opinion (or disclaimer of opinion) of the financial statements; a report on internal control related to the financial statements and major programs; an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts; and the schedule of findings and questioned costs. [2 CFR 200.515]

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ARTICLE X. AUDIT REQUIREMENTS (Continued)

5. Performed in accordance with provisions applicable to this program as identified in 2 CFR Part 200, Subpart F Audit Requirements [formerly OMB Circular A-133 Compliance Supplement].
- F. 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.
- G. The Contractor shall prepare a summary worksheet of results from the contract resolutions performed of all subcontractors. The summary worksheet shall include, but not 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.
- H. 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, Subpart F – Audit Requirements have not been conducted or have been conducted but not in accordance therewith; and
  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, Subpart 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.

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ARTICLE X. AUDIT REQUIREMENTS (Continued)

- 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, Subpart 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]

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

ARTICLE XI. INSURANCE

- A. Prior to commencement of any work under this Agreement, the Contractor shall provide for the term of this Agreement, the following insurance:
  1. General liability of not less than \$1,000,000 per occurrence for bodily injury and property damage combined. Higher limits may be required by the 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
    - 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).

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ARTICLE XI. INSURANCE (Continued)

- B. The insurance will be obtained from an insurance company acceptable to the Department of General Services, Office of Risk and Insurance Management (DGS, ORIM), or be provided through partial or total self-insurance acceptable to the Department of General Services (DGS).
- C. Evidence of insurance shall be in a form and content acceptable to DGS, ORIM.
- D. The Contractor shall notify the State within five (5) business days of any cancellation, non-renewal, or material change that affects required insurance coverage.
- E. Insurance obtained through commercial carriers shall meet the following requirements:
  - 1. The Certificate of Insurance shall provide the statement: "The Department of Aging, State of California, its officers, agents, employees, and servants are included as additional insureds, with respect to work performed for the State of California under this Agreement." Professional liability coverage is exempt from this requirement.
  - 2. CDA shall be named as the certificate holder and CDA's address must be listed on the certificate.
- F. The insurance provided herein shall be in effect at all times during the term of this Agreement. In the event the insurance coverage expires during the term of this Agreement, the Contractor agrees to provide CDA, at least thirty (30) days prior to the expiration date, a new Certificate of Insurance evidencing insurance coverage as provided herein for a period not less than the remaining Agreement term or for a period not less than one (1) year. In the event the Contractor fails to keep in effect at all times said insurance coverage, CDA may, in addition to any other remedies it may have, terminate this Agreement.
- G. The Contractor shall require its subcontractors under this Agreement, other than units of local government which are similarly self-insured, to maintain adequate insurance coverage for general liability, Worker's Compensation liabilities, and if appropriate, auto liability including non-owned auto and professional liability, and further, the Contractor shall require all of its subcontractors to hold the Contractor harmless. The Subcontractor's Certificate of Insurance for general and auto liability shall also name the Contractor, not the State, as the certificate holder and additional insured. The Contractor shall maintain Certificates of Insurance for all of its subcontractors.
- H. A copy of each appropriate Certificate of Insurance or letter of self-insurance, referencing this Agreement number shall be submitted to CDA with this Agreement.

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ARTICLE XI. INSURANCE (Continued)

- 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.
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.

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ARTICLE XII. TERMINATION (Continued)

5. Evidence that the Contractor is in an unsatisfactory financial condition as determined by an audit of the Contractor or evidence of a financial condition that endangers performance of this Agreement and/or the loss of other funding sources.
6. Delinquency in payment of taxes or payment of costs for performance of this Agreement in the ordinary course of business.
7. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the Contractor.
8. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income.
9. The commission of an act of bankruptcy.
10. Finding of debarment or suspension. [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.
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).

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ARTICLE XII. TERMINATION (Continued)

D. Effective Date

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

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

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

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

In the event the Contractor no longer intends to provide services under this Agreement, the Contractor shall give CDA Notice of Intent to Terminate. Such notice shall be given in writing to CDA at least one hundred eighty (180) days prior to the proposed termination date. Unless mutually agreed upon, the Contractor does not have the authority to terminate the Agreement. The Notice of Intent to Terminate shall include the reason for such action and the anticipated last day of work. The Contractor shall submit a Transition Plan in accordance with Exhibit E.

G. In the Event of a Termination Notice

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

ARTICLE XIII. REMEDIES

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

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**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. Any notice given to CDA for the Contractor's change of legal name, main address, or name of the Director shall be completed by submitting an Agency Contacts Designation Form (CDA045) 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.

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**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, upon request from CDA, submit the name of its Agency Contract Representative (ACR) for this Agreement by submitting an Agency Contacts Designation form (CDA 045) to AAAcontactinfo@aging.ca.gov. This form requires the ACR's address, phone number, email address, and FAX number to be included on this form. For any change in this information, the Contractor shall submit an amended CDA 045.

**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) 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

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ARTICLE XVIII. INFORMATION INTEGRITY, AND SECURITY (Continued)

B. Encryption of Computing Devices

The Contractor, and its Subcontractors/Vendors, are required to encrypt data collected under this Agreement that is confidential, sensitive, and/or personal information including data 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 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 confidential, sensitive and/or personal identifying information 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, confidential, sensitive and/or personal identifying information such as names and other identifying information concerning persons receiving services pursuant to this Agreement, except for statistical information not identifying any participant.
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 confidential, sensitive and/or personal identifying information 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.

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ARTICLE XVIII. INFORMATION INTEGRITY, AND SECURITY (Continued)

D. Security Awareness Training

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

F. Contractor Confidentiality Statement

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

G. Security Incident Reporting

A security incident occurs when CDA information assets are 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 confidential, sensitive and/or personal identifying information could have been breached in accordance with HIPAA, the Information Practices Act of 1977, and State policy.

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ARTICLE XVIII. INFORMATION INTEGRITY, AND SECURITY (Continued)

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

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.

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ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA (Continued)

B. Rights in Data

1. The Contractor shall not publish or transfer any materials, as defined in paragraph 2 below, produced or resulting from activities supported by this Agreement without the express written consent of the Director of CDA. That consent shall be given, or the reasons for denial shall be given, and any conditions under which it is given or denied, within thirty (30) days after the written request is received by CDA. CDA may request a copy of the material for review prior to approval of the request. This subsection is not intended to prohibit the Contractor from sharing identifying client information authorized by the participant or summary program information which is not client-specific.
2. As used in this Agreement, the term "subject data" means writings, sound recordings, pictorial reproductions, drawings, designs or graphic representations, procedural manuals, forms, diagrams, workflow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are first produced or developed under this Agreement. The term does not include financial reports, cost analyses and similar information incidental to contract administration, or the exchange of that information between AAAs to facilitate uniformity of contract and program administration on a statewide basis.
3. Subject only to 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.

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ARTICLE XX. BILINGUAL AND LINGUISTIC PROGRAM SERVICES (Continued)

- 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 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]
- 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.

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ARTICLE XX. BILINGUAL AND LINGUISTIC PROGRAM SERVICES (Continued)

- e. Translated written information materials, including but not limited to, enrollment information and descriptions of available services and programs.
  - f. Referral to culturally and linguistically appropriate community service programs.
3. Based upon the findings of the group-needs assessment, 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]

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]

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ARTICLE XX. BILINGUAL AND LINGUISTIC PROGRAM SERVICES (Continued)

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 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]