

22CWS171

GRANT ASSISTANCE AGREEMENT

This Grant Assistance Agreement (the "Agreement") is made and entered into by and between the Kentucky Infrastructure Authority (the "Authority"), a body corporate and politic, constituting a public corporation and governmental agency and instrumentality of the Commonwealth of Kentucky, and the Lexington-Fayette Urban County Government (the "Grantee"), acting herein through its Authorized Official, each a party to this Agreement, which shall be effective upon the date of signing by the Executive Director of the Authority,

WITNESSETH:

WHEREAS, the General Assembly of the Commonwealth of Kentucky, being the duly and legally constituted legislature of Kentucky at its 1988 Regular Session, enacted House Bill 217 amending Chapter 224A of the Kentucky Revised Statutes (the "Act"), creating the "Kentucky Infrastructure Authority" to serve the public purposes identified in the Act; and

WHEREAS, the Authority, attached to the Governor's Office, is charged pursuant to Section 224A.300 of the Act with coordinating the funding and implementation of infrastructure projects and to this end maintains the Water Resource Information System (the "WRIS") a comprehensive database of community water and wastewater projects across Kentucky; and

WHEREAS, House Bill 1 of the 2022 Regular Session of the Kentucky General Assembly approved a \$250,000,000 allocation in Federal Funds for Fiscal Year 2023 from the American Rescue Plan Act of 2021/Coronavirus State Fiscal Recovery Fund to the Authority for the Drinking Water and Wastewater Grant Program, known as the Kentucky Cleaner Water Program (the "CWP"), a portion of which funds are the subject of this Agreement; and

WHEREAS, the Grantee now seeks to acquire and construct a project as described in the Grantee's Project Profile in the WRIS (the "Project") and the Authority has determined that the Project meets the guidelines of the Cleaner Water Program and the directives of the General Assembly; and

WHEREAS, the Grantee and the Authority desire to enter into this Agreement which sets forth their respective duties, rights, covenants, and obligations with respect to the acquisition and construction of the Project and the application of the proceeds of a grant from the Cleaner Water Program as administered by the Authority.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the grant hereby effected, and for other good and valuable consideration, the receipt, mutuality and sufficiency of which is hereby acknowledged by the parties hereto, the Authority and the Grantee each agree as follows:

SECTION 1 – DEFINITIONS

All terms utilized herein shall have the same definitions and meaning as ascribed to them in the Act, which Act is hereby incorporated in this Agreement by reference, the same as if set forth herein verbatim; provided, however, that those definitions utilized in the Act having general application are hereby modified in certain instances to apply specifically to the Grantee and its Project.

Act shall mean Chapter 224A of the Kentucky Revised Statutes, as amended (the “KRS”).

Agreement shall mean this Grant Assistance Agreement made and entered into by and between the Grantee and the Authority, as authorized by the Act, providing for a Grant to be made to the Grantee or its approved agent, subject to approval by the Authority.

Area Water Management Council shall mean the entity designated as the regional planning body for the respective counties within an Area Development District in Kentucky, which shall prepare and maintain an **Area Water Management Plan**, listing and prioritizing Project Profiles for water and wastewater projects within that region.

Engineer(s) shall mean the professional engineer or firm of professional engineers properly procured in accord with KRS Chapter 45A and 2 CFR 200.317 through 2 CFR 200.327 (where applicable), as amended, by the Grantee in connection with the Project, as identified in the WRIS Cleaner Water Program Database.

Exhibit shall refer to a specific document, or to the completion of a process or procedure to be accomplished as a prerequisite to release of funds to the Grantee by the Authority.

Grant shall mean that portion of the Kentucky CWP funds made available to the Commonwealth by the American Recovery Program Act and allocated by the Kentucky General Assembly in its 2022 Regular Session, which shall be incrementally transferred under this Agreement from the Commonwealth to the Grantee through Grant Number 22CWS171 in the principal amount of \$1,281,696 for the purpose of defraying the costs incidental to the Project.

Grantee shall mean any unit of local government, or its designated agent, as approved by the Authority, or any special purpose governmental entity within the Commonwealth eligible for funds under the CWP in accordance with the Act, now having been or hereafter being granted the funds for the Project; and for the purposes of this Agreement shall mean the Grantee identified on the front page of this Agreement.

Project shall mean, when used generally, a water, wastewater or other infrastructure project authorized pursuant to the Act, and when used in specific reference to the Grantee’s Project funded by the Authority through the CWP, it shall refer to that

project as described in the Grantee's Project Profile in the WRIS, which has an 8 digit number following the designation WX or SX.

Project Administrator shall mean that individual designated in the Project Profile by that title, who has the capacity and responsibility of supervising the Project and coordinating the preparation of all related documentation on behalf of the Grantee with respect to the Project.

Project Budget shall mean a list of Project expenses and funding sources, in the form set forth in the current Project Profile as set forth in the WRIS.

Project Profile shall mean those specific details of the Project, presented by the Grantee to the respective Area Water Management Council for review and incorporation into the Area Water Management Plan and the WRIS.

System shall mean the utility system owned and operated by the Grantee or the agent of the Grantee, as approved by the Authority, to which the Project shall become a part, and any revenues generated by the Project, which are used to operate and maintain the utility system in the typical manner of a local public utility in Kentucky.

SECTION 2 - OBLIGATIONS OF THE AUTHORITY

The Authority covenants and agrees, conditioned upon the timely performance by the Grantee of its respective obligations, to undertake the following obligations:

- A. The Authority shall review and approve Project related documentation provided by the Grantee. Once the Project is under construction, the Authority shall review requests for payment submitted for payment of costs of the Project. Any deficiencies found in said requests will be reported immediately to the Grantee. If there are no deficiencies in said requests or deficiencies have been resolved satisfactorily by the Grantee, the Authority will approve the requests and disburse grant funds to the Grantee in an amount not to exceed, cumulatively, the approved grant amount for the Project.
- B. The Authority will communicate and cooperate with the Grantee to best assist the Grantee in meeting its obligations set out in this Agreement.

SECTION 3 - OBLIGATIONS OF THE GRANTEE

The Grantee covenants and agrees to undertake the following obligations:

- A. The Grantee shall complete and submit executed copies of all required Exhibits to the Authority, in accordance with the Conditional Commitment Letter instructions.

- B. The Grantee may consider utilizing the option for partial funding set out in Section 6, below. Over the course of the acquisition and construction of the Project, the Grantee shall provide such status reports as may be requested by the Authority, and once the Project is under construction submit periodic requests for payment to the Authority accompanied by copies of invoices for costs incurred in accordance with the Authority's standard draw-down request format.
- C. The Grantee shall perform and/or cause to be performed all necessary acts consistent with all federal and state labor and procurement laws in connection with the planning, design, acquisition and construction of the Project, including: the proper procurement of land, easements and rights of way; professional services, including but not limited to architectural and engineering services; construction contractor(s) services; and the acquisition of necessary equipment and/or materials.
- D. The Grantee shall obtain and keep on file all required permits, licenses and approvals from the appropriate federal, state, and/or local governmental agencies prior to starting construction of the Project.
- E. The Grantee shall comply with all applicable federal and state statutes, executive orders, regulatory requirements, and policies relating to the planning and construction of the Project.
- F. The Grantee shall cooperate fully with the Authority and provide any documentation requested by the Authority in order to facilitate completing the obligations set out in this Agreement.
- G. The Grantee will proceed expeditiously to complete the Project in accordance with the approved final engineering plans and specifications or amendments thereto, prepared by the Project Engineer for the Grantee, if required and as approved by the Authority and other state and federal agencies, as appropriate.
- H. The Grantee agrees that throughout the reasonable life of the infrastructure facilities developed under the Project it will retain ownership of, operate, and maintain these facilities, and all appurtenances thereto, keeping them in good and sound repair and good operating condition at its own expense so that the completed Project will continue to provide the services for which it was designed. Change of ownership or disposal of the Project facilities during their useful life may occur only with written approval of the Authority.
- I. If the Grantee is a local unit of government, city or county, and determines that it is in the best interest of its citizens, it may enter into a memorandum of agreement with a Kentucky corporation to serve as its agent for the implementation and long-term operation and management of the Project, subject to the Agreement. The form and content of such a memorandum of agreement is subject to the prior approval of the Authority.

- J. General Compliance with all Duties. The Grantee shall faithfully and punctually perform all duties with reference to the System required by the American Rescue Plan Act of 2021, and by the terms and provisions of the Act, and this Assistance Agreement.
- K. Further Covenants under the American Rescue Plan Act of 2021. The Grantee shall comply with all further requirements or conditions which may arise from time to time in order to assure compliance with the American Rescue Plan Act of 2021, including but not limited to the following:
1. Records Retention. The Grantee shall provide to the Authority access to all records related to the Project for review in determining compliance with this Agreement and all applicable laws and regulations, including the American Rescue Plan Act of 2021/Coronavirus State Fiscal Recovery Fund. The Grantee shall retain all records, including all invoices, relating to the Project for five (5) years after full execution of the Certificate of Completion.
 2. Single Audit Requirements. Grantees that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements. Grantees may also refer to the Office of Management and Budget (OMB) Compliance Supplements for audits of federal funds and related guidance and the Federal Audit Clearinghouse to see examples and single audit submissions.
 3. Civil Rights Compliance. The Grantee is required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the U.S. Department of the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.
- L. General. The Grantee shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Grantee under the provisions of the American Rescue Plan Act of 2021 and this Assistance Agreement in accordance with the terms of such provisions.

SECTION 4 - MUTUALITY OF OBLIGATIONS

- A. The parties agree that the funds granted by the Commonwealth to the Grantee are to be used solely for the purposes of the acquisition and construction of the Project. Further, the parties agree that the obligations imposed upon them are for their respective benefit and the timely fulfillment of the obligations set herein are necessary for the Project.
- B. Except as may otherwise be provided herein, the parties to this Agreement shall be solely responsible for any incidental costs incurred in fulfilling their respective obligations under this Agreement and neither party shall have any claim against the other party for reimbursement of incidental costs whether or not a party is in default.

SECTION 5 - TERMS OF AGREEMENT

- A. This Agreement shall be valid only after both parties have duly signed and provided the executed document to the other.
- B. This Agreement may be terminated by either party at any time for cause and may be terminated by either party without cause upon 30 days written notice to the other party. Termination of this Agreement shall not diminish or in any other manner affect any other remedy that may be available to the parties for any breach of the Agreement that occurs prior to the termination.
- C. If, after execution of this Agreement, additional financial assistance is found to be required for the acquisition and construction of the Project and the required additional assistance does or does not become available to the Grantee from any source, the Project may be modified so long as any change in scope and budget is mutually agreed to by the parties to this Agreement, and clearly documented in a revision of the Project Budget within the Project Profile.

SECTION 6 - ADVANCE FUNDING FOR PROJECT PLANNING AND DESIGN

- A. The Grantee may request, in writing, that a portion of the grant funds be disbursed prior to Project bidding to pay up to 50% of the budgeted engineering fee for Project planning and design to the Project Engineer to expedite submission of the Project plans and specifications for review by the Kentucky Division of Water. The balance of the budgeted engineering fee for project planning and design may be paid only after approval of the plans by the Kentucky Division of Water.
- B. It is specifically understood and agreed by the Grantee in the event that the Project has not been advertised for bids within twenty-four (24) months from the date of

signing of this Agreement, for whatever reason, any funds disbursed for Project planning and design are subject to full and immediate repayment by the Grantee to the Authority.

- C. No funds shall be released under this Section until the requirements of Exhibits 1 through 7 of this Agreement have been completed.

SECTION 7. - EVENTS OF DEFAULT AND REMEDIES.

Section 7.1. Events of Default Defined.

The following will be "Events of Default" under this Agreement and the term "Event of Default" or "Default" will mean, whenever it is used in this Agreement, any one or more of the following events:

- A. Any unauthorized or improper expenditure of funds by the Grantee, or expenditure of funds by the Grantee other than in accordance with the terms of this Agreement.
- B. Failure by the Grantee to observe or perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection (A) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied will have been given to the Grantee by the Authority unless the Authority agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Authority will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Grantee within the applicable period and diligently pursued until such failure is corrected.
- C. The dissolution or liquidation of the Grantee, or the voluntary initiation by the Grantee of any proceeding under any federal or Kentucky law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Grantee of any such proceeding which remain undismissed for sixty (60) days, or the entry by the Grantee into an agreement of composition with creditors or the failure generally by the Grantee to pay its debts as they become due.
- D. A default by the Grantee under the provisions of any agreements relating to its debt obligations.

Section 7.2. Remedies on Default.

Whenever any Event of Default referred to in Section 7.1 has occurred and is continuing, the Authority may, without any further demand or notice, take one or any combination of the following remedial steps:

- A. Declare this Agreement void from the beginning without further obligation to the Grantee and may commence appropriate legal action to enforce its rights under this Agreement including action for recovery of funds expended hereunder.
- B. Terminate any remaining grant payments to the Grantee.
- C. Exercise all the rights and remedies of the Authority set forth in the Act.
- D. Take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Agreement.
- E. Submit a formal referral to the appropriate federal agency.

Section 7.3. No Remedy Exclusive.

No remedy herein conferred upon or reserved to the Authority is intended to be exclusive, and every such remedy will be cumulative and will be in addition to every other remedy given hereunder and every remedy now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power and any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 7.4. Consent to Powers of Authority Under Act.

The Grantee hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges in respect of the Project upon the occurrence of an Event of Default, and the Grantee hereby covenants and agrees that if the Authority should in the future have recourse to said rights and powers, the Grantee shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Agreement.

Section 7.5. Waivers.

In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver will be limited to the particular breach so waived and will not be deemed to waive any other breach hereunder.

Section 7.6. Agreement to Pay Attorneys' Fees and Expenses.

In the event that either party hereto defaults under any of the provisions hereof and the non-defaulting party employs attorneys or incurs other expenses for the enforcement of

performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will pay on demand therefor to the non-defaulting party the fees of such attorneys and such other expenses so incurred by the non-defaulting party.

SECTION 8 - MISCELLANEOUS PROVISIONS

- A. The Grantee may sign this Agreement electronically via a program subject to the approval by the Authority, or manually on a paper copy that is scanned to the portable document format (.pdf) and emailed to the Authority. Transmittal of all other correspondence or documentation, including the required Exhibits identified in the Attachment shall be scanned and attached as a file to email. The Authority and the Grantee, working through the Project Administrator, shall assist each other in securing and maintaining a complete, current Project document file for reference, records, and audit purposes.
- B. The headings set forth in this Agreement are for convenience and the terms contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.
- C. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the successor and assigns, respectively, of the parties. Except for the limited use of a memorandum of agreement (as provided in Section 3 herein), this provision shall not be construed to permit an assignment by any party of any of its rights and duties under this Agreement which assignment shall be prohibited except with the prior written consent of the parties hereto.
- D. This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof and may be modified only by a written instrument duly executed by each of the parties hereto.
- E. Timely and accurate performance of all actions by the respective parties are mutually recognized by the parties of this Agreement to be of importance to the citizens of the Commonwealth generally, and particularly to those citizens directly affected by the Project.
- F. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.
- G. The Authority may audit or review all documentation and records of the Grantee relating to this Project pursuant to the provisions of Section 45A.150 of the KRS or any other applicable federal or state law.
- H. The Grantee agrees that the Authority, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other documentation or evidence, which are directly pertinent to this Agreement for the purpose of financial audit or program review.

Furthermore, any books, documents, papers records, or other evidence provided to the Commonwealth, the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission, which are directly pertinent to this Agreement, shall be subject to public disclosure regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)(c) prior to the execution of this Agreement. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information which would otherwise be subject to public release if a state government agency was providing the services.

- I. During the performance of this contract, the Grantee agrees to the following Appendix II to 2 CFR Part 200 contract provisions, as amended:

Equal Employment Opportunity

1. The Grantee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Grantee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
 - a. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - b. The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - c. The Grantee will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- d. The Grantee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Grantee will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Grantee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Grantee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Grantee will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Grantee becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Contract Work Hours and Safety Standards Act

All contracts that are in excess of \$100,000 and involve the employment of mechanics or laborers must include provisions requiring compliance with the Contract Work Hours and Safety Standards Act as follows:

1. Overtime requirements: No contractor or subcontractor contracting for any part of the Agreement work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.
2. Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
3. Withholding for unpaid wages and liquidated damages. The Grantee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

Clean Air Act

1. The Grantee agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The Grantee agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.

3. The Grantee agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funding.

Federal Water Pollution Control Act

1. The Grantee agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The Grantee agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.
3. The Grantee agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.

Debarment and Suspension

Contracts shall not be awarded to parties listed on the governmentwide exclusions in the System for Award Management (SAM) listed at www.sam.gov.

Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier, up to the recipient.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officials as of the day and year above written.

**KENTUCKY INFRASTRUCTURE
AUTHORITY**

By: _____
Sandy Williams, Executive Director

Date: _____

**LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT**

By: *Linda Gorton*
Authorized Official

Print Name: Linda Gorton

**THIS AGREEMENT HAS BEEN EXAMINED
BY:**

By: _____
**LEGAL COUNSEL TO THE KENTUCKY
INFRASTRUCTURE AUTHORITY**

CWP GRANT CONDITIONS – COMPLIANCE FORMS & EXHIBITS

Note A: Exhibits 1 through 3 must be completed, scanned, and emailed to the Authority on or before the date the Grantee signs the Conditional Commitment Letter. The Conditional Commitment Letter may be signed electronically or manually, then scanned and emailed to the Authority.

- Exhibit 1 Notification to the Authority of completed Review / Update of Project Profile
- Exhibit 2 Confirmation of Grantee Vendor Number – via KY Finance Cabinet Application
- Exhibit 3 Copy of the Transparency Act Reporting Information Form

Note B: Upon receipt of the signed Conditional Commitment Letter and the Authority's verification of Exhibits 1-3, the Authority will forward to the Grantee the Grant Assistance Agreement. The Grantee should proceed to complete Exhibits 4 through 7, scan and send each Exhibit to the Authority by email; and then the Authorized Official may sign the Assistance Agreement, either electronically or by scanning and send attached to email.

- Exhibit 4 A) Grantee Resolution (Accepting Grant, Approving Agreement, Amending Budget, Designating an Authorized Official)
B) Certificate of Recording Officer
- Exhibit 5 Opinion of Legal Counsel Relating to the Grantee Resolution
- Exhibit 6 A) Copy of the Engineering Services Contract; and
B) Grantee & Engineer Fee Confirmation

Note C: The Grantee may request 50% of the engineering design fee (as budgeted in the Project Profile) at this point and may request the balance of the engineering design fee once Exhibit 8 has been sent to the Authority.

- Exhibit 7 Copy of the Kentucky eClearinghouse Endorsement Letter with Comments.
- Exhibit 8 Copy of the DOW Approval Letter of Project Engineering Plans & Specifications.
- Exhibit 9 Copy of the bid package signed by (A) Engineer, (B1) Authorized Official, and (B2) Title Attorney, as appropriate.
- Exhibit 10 Certification Regarding Utility Accounting, Cost-Based Rates and Auditing.
- Exhibit 11 Certificate of Project Completion.

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Fayette
July 1, 2024
FY '25

Attachment A

Older Americans Act

In relation to this contract, the Second Party agrees to perform the following specific and additional functions described with particularity in this attachment for the Title III Program which is subscribed by the parties for identification and made a part hereof as if fully incorporated herein:

1. Perform the functions described with particularity in the Second Party's approved Request for Proposal which is hereby made a part hereof as if fully incorporated herein and is kept on file at the Bluegrass ADD's office in Lexington, Kentucky:
2. Complete the objectives for FY '25 as set forth on the Service Delivery/Budget Back page hereto attached.
3. Submit monthly expenditure reports no later than the **8th of every month beginning August 8th** on the form(s) prescribed by the Bluegrass ADD. **Must match units reported in State Database System.**
4. **Enter all service units into the State Database System by the 5th of the month.**
5. **All invoice corrections must be submitted back to BGADD within 1 business day of notification of needed correction.**
6. **Assure that Senior Center Directors or appropriate staff attend required meetings and training, including Program Director meetings, conducted by or sponsored by the Bluegrass Area Agency on Aging.**
7. The Second Party's fees and expenses relative to the performance of the functions heretofore described shall not exceed the Federal/State amounts as shown in the Title III budgets hereto attached. Expenditures in excess of the attached amounts will be borne by Program Income and additional local funds.

The amount of local funds required will be computed as follows:

For Supportive Services, Congregate Meals, Home Delivered Meals : Expenditures will consist of **85%** of Federal monies and **15%** State monies, local monies and/or Second Party in-kind until the maximum amount of Federal/State is accessed. Thereafter, expenditures will consist of Program Income, local monies and/or appropriate in-kind. **Note: Program Income may not be used to meet the 15% match required.**

Failure of the Second Party to provide required local resources may result in proportionate reduction of Federal funds. The matching requirement must be met through provision of State funds, local cash, and/or Second Party In-kind contributions.

Attachment B

Older Americans Act

In relation to this contract, the Second Party agrees to perform the following specific and additional functions described with particularity in this attachment for the Title III Program which is subscribed by the parties for identification and made a part hereof as if fully incorporated herein:

1. Perform the functions described with particularity in the Second Party's approved Request for Proposal which is hereby made a part hereof as if fully incorporated herein and is kept on file at the Bluegrass ADD's office in Lexington, Kentucky:
2. Participate and support BGAAAIL efforts in the following:
 - a. Ensure 75% of homebound seniors will be offered an evidence-based physical activity program annually
 - b. Senior Centers will offer at minimum one smoking cessation intervention annually
 - c. Reduce the number of seniors reporting social isolation by 3 percent through the use of evidenced-based interventions during fiscal year
 - d. Increase private pay, cost share, and voluntary contributions by 20% each fiscal year
 - e. All staff who interact with citizens must receive training from the Office of Dementia Services
 - f. Support BGAAAIL in efforts to expand opportunities for transportation organizations (for-profit and nonprofit) to further develop transportation options for vulnerable populations and underserved areas through quarterly community meetings to discuss transportation for the elderly and their caregivers
 - g. Ensure all staff participate in the Senior Center Community College training and provide documentation that all staff have attended
 - h. Provide documentation that all staff and volunteers have received training on preventing, identifying, and reporting abuse, neglect, and exploitation of older adults
 - i. Ensure that each client has an individual disaster plan documented in the State Reporting System.

ATTACHMENT C
Certification Regarding
Drug-Free Workplace Requirements (Grants)
Alternative I for Grantees Other Than Individuals

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle V; 41 U.S.C. 701 et seq.), 7 CFR Part 3017, Subpart F, Section 3017.600, Purpose. The January 31, 1989, regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691). Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the grant.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON PAGE 2)

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS (Check One)

ALTERNATE I - For applicant/grantees other than individuals:

A. The grantee certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- (e) Notifying the agency within ten calendar days after receiving notice under subparagraph (d) (2), from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d) (2), with respect to any employee is so convicted:
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee shall insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

PLACE OF PERFORMANCE (Street address, city, county, state, zip code)

195 Life Lane, Lexington, Fayette, KY 40502

_____ Check if there are workplaces on file that are not identified here.

Lexington-Fayette Urban County Government

Organization Name

Lexington Senior Citizen Center

Award Number or Project Name

Linda Gorton, Mayor

Name and Title of Authorized Representative

Linda Gorton

Signature

Date

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this form, the grantee is providing the certification set out on pages 1 and 2.
2. The certification set out on pages 1 and 2 is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known they may be identified in the grant application. If the grantee does not identify the workplace at the time of application, or upon award, if there is no application, the grantee must keep the identify of the workplace(s) on file in its office and make the information available for Federal inspection.. Failure to identify all known workplaces constitutes a violation of the grantee's drug free workplace requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).
5. If the workplace identified to the agency changes during the performance of the grant, the granteeshall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph three).
6. Definitions of terms in the Non-procurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

"Conviction" means finding a guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes:

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or position of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (1) all "direct charge" employees; (II) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and , (III) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of sub-recipients or subcontracts in covered workplaces).

Master Contract
Buyer Name: Bluegrass Area Agency on Aging
July 1, 2024 –June 30, 2025


FIRST PARTY:

BLUEGRASS AREA DEVELOPMENT DISTRICT

Celeste Robinson, Director of Aging

SECOND PARTY:

**LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT : DBA LEXINGTON SENIOR
CITIZENS CENTER**



(Authorized Signature)

Linda Gorton, Mayor
(Typed Name and Title)

Contract: AS-2024-2025
Date: July 1, 2024

PROGRAM ADMINISTRATION CONTRACT

THIS AGREEMENT, made and entered as of the 1st day of July, 2024, by and between the BLUEGRASS AREA DEVELOPMENT DISTRICT, hereinafter referred to as the BLUEGRASS ADD, and

**LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT : DBA LEXINGTON SENIOR
CITIZENS CENTER**

195 LIFE LANE, LEXINGTON, KY 40502

hereinafter referred to as the SECOND PARTY,

WITNESSED THAT:

WHEREAS THE BLUEGRASS ADD, in the exercise of its lawful duties, has determined upon the necessity for the performance of the following functions, briefly described as:

(1) Administration of the TITLE III Grant from the United States Department of Health and Human Services (DHHS), Administration for Community Living pursuant to the Older Americans Act of 1965, as amended.

Title Page

For

**Sub-recipient - FY25 Title III, Homecare, SHIP, Title VII, Ombudsman, NSIP,
Title IIIC Elder Nutrition Program Management**

Memorandum of Agreement

**Between a State Agency, Other Governmental Body, Political Subdivision, an Entity
Qualified as Nonprofit under 26 U.S.C. sec.501(c)(3), or an Entity designated as
For-profit**

Issued by

**The Bluegrass Area Development District
Area Agency on Aging & Independent Living**

SOLE POINT OF CONTACT

Celeste Robinson
Contract Specialist
699 Perimeter Dr.
Lexington, KY 40517
Telephone: 859-269-8021
E-mail: crobinson@bgadd.org

SUBRECIPIENT Memorandum of Agreement Terms and Conditions

This Memorandum of Agreement (MOA) is entered into, by and between the Bluegrass Area Development District/Area Agency on Aging and Independent Living (BGADD/AAAIL) and Title III, Homecare, SHIP, Title VII, Ombudsman and NSIP (Contractor) to establish an agreement for Services. The initial MOA is effective from July 1,2023 through June 30,2024.

SECTION 1-ADMINISTRATIVE OVERVIEW

1.00-Purpose and Background

The Bluegrass Area Development District/Area Agency on Aging & Independent Living has determined there is a necessity to enter into an agreement for the administration of the Title III, Homecare, SHIP, Ombudsman, and Title VII, Grant, from the United States Administration for Community Living (ACL), Administration on Aging (AOA), pursuant to the Older Americans Act of 1965 (OAA), as amended, KRS 205.204, KRS 205.455-470, 910 KAR Chapter 1, 910 KAR 1:180 and KRS 13B for the counties within the Bluegrass Area Development District (BGADD). Title III is comprised of the following programs: Supportive Services, Congregate Meals, Home Delivered Meals, Disease & Health Promotion, Legal Services, National Family Caregiver Support (NFCSP), and Long-Term Care Ombudsman. Homecare Program is a State General Funded program.

The Bluegrass Area Development District/Area Agency on Aging & Independent Living, in accordance with Section 4360 of the Omnibus Budget Reconciliation Act of 1990 has determined there is a necessity to enter into an agreement to administer a grant from United States Department of Health and Human Services (HHS), Administration for Community Living (ACL), Department for Aging and Independent Living (DAIL) for the provision of a State Health Insurance Assistance Program (SHIP), providing health information, counseling and assistance to eligible persons within the BGADD.

1.01-Issuing Office

The Bluegrass Area Development District is issuing this Contract on behalf of the Bluegrass Area Agency on Aging & Independent Living. The BGADD/AAAIL is the only office authorized to change, modify, amend, alter, or clarify the specifications, terms and conditions of this Contract.

1.02-Communications

The Contract Specialist identified on page 1 is the point of contact for communications concerning contract issues.

1.03-Terminology

For the purpose of this Contract, the following terms may be used interchangeably:

- Vendor: Contractor, Offeror, The Second Party, Proposer
- Contract Specialist: Buyer, Purchaser, Contract Officer
- RFP, Solicitation, RFQ or offer

- Bid, Proposal, or Offer
- Bluegrass Area Development District or BGADD
- Bluegrass Area Agency on Aging and Independent Living, or BGAAAIL
- Commonwealth of Kentucky: Commonwealth, State
- Department for Aging and Independent Living, or DAIL
- Kentucky Cabinet for Health and Family Services, Cabinet for Health and Family Services, or CHFS
- Fiscal Year will be defined as the BGADD fiscal year: July 1 through June 30
- Biennium will be defined as the Commonwealth biennium: July 1 of each even numbered year through June 30 of the next even numbered year.

1.04-Organization

This Contract is organized in the following manner:

Section 1-Administrative Overview

Section 2-Scope of Services

Section 3-Pricing/Invoicing

Section 4-BGADD General Terms and Conditions

Section 5-Federal Requirements

Finance Terms and Conditions of the Contract

1.05-Definitions/Acronyms

1. "AAAIL" means the Area Agency on Independent Living which resides within the Area Development District .
2. "ACL" means Administration for Community Living.
3. "Access Services" means services including transportation, health services (including mental and behavioral health services), outreach, information and assistance (which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible), and case management services.
4. "ADA" means Americans with Disabilities Act
5. "ADD" means Area Development District

6. "Advertising costs" means the cost of advertising media (and corollary administrative costs). Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.
7. "Advocacy" means action taken on behalf of an older person to secure his or her rights or benefits. Advocacy includes receiving, investigating, and working to resolve disputes or complaints; assistance with housing issues; and how to write letters and talk to people about their issues. This does not include services provided by an attorney or person(s) under the supervision of an attorney.
8. "Agency" means the ADD, an entity designated by the Commonwealth to administer, at the local level, the programs funded by the Older Americans Act of 1965, as amended, pursuant to KRS 205.20 and 910 KAR 1:170 Section 1 (2).
9. "Aging and Disability Resource Center" or "ADRC" means a program which provides access to long-term care options by using a wide range of community resources.
10. "Assessment" means the collection and evaluation of information about a person's situation and functioning to determine the applicant or recipient service level and development of a plan of care utilizing a holistic, person-centered approach by a qualified individual in accordance with 910 KAR 1:170 Section 1(3).
11. "Assisted Transportation" means a one-way trip to accompany an eligible person who requires assistance for safety or protection to or from his or her physician, dentist, or other necessary service pursuant to 910 KAR 1:170 Section 1(4).
12. "Back-up documentation" includes but is not limited to documents that include evidence of a financial transaction, such as debit/credit memos, invoices, receipts, orders, vouchers, account reports/ledgers, cancelled checks which shall be submitted with all invoices.
13. "CHFS" or "Cabinet" means the Cabinet for Health and Family Services per KRS 205.204.
14. "Case Management" means a process, coordinated by a case manager, for the linking of a client to appropriate, comprehensive, and timely home or community based services as identified in the plan of care by planning, referring, monitoring, advocating and following the timeline of the assessment agency to obtain service level and development of the plan of care pursuant to 910 KAR 1:170 Section 1(5).
15. "Case Manager" means the individual employee responsible for case management including coordinating services and supports from all agencies involved in providing services required by the plan of care, ensuring that all service providers have a working knowledge of the plan of care and ensuring that services are delivered as required pursuant to 910 KAR 1:170 Section 1(7).
16. "Cash and Counseling" means a range of services provided or paid for through allowance, vouchers, or cash which are provided to the client so that the client can obtain the supportive services which are needed.
17. "Certification" means the official notification by the Kentucky Long-Term Care Ombudsman that the local Long-Term Care Ombudsman individual staff are qualified and acceptable to function in that capacity as defined in 910 KAR 1:210 Section 1 (4).
18. "Certified Ombudsman" means a person who has received thirty-six (36) hours of formal training from state approved curriculum regarding the Ombudsman program and has received certification by the Kentucky Long-Term Care Ombudsman.
19. "CMS" means the Centers for Medicare and Medicaid Services

20. "Counseling" means advisory services conducted by a certified or licensed professional or someone who has had approved training but not board certified to advise and enable the older person and their family to resolve problems or to relieve temporary stresses encountered by their family.

21. "DAIL" means the Department for Aging and Independent Living which shall serve as the state unit on aging as designated by the Administration on Community Living under the Older Americans Act (OAA)

22. "Disaster" means floods, tornadoes, earthquakes, droughts, extreme heat/cold, fires, chemical spill, power outages in excess of 10 hours, ice storm, severe thunderstorms, wind, or hail storms, contaminated water, pandemics flu, nuclear war, radioactive waste leaks, snow storm, public health emergency, terrorist attacks, accidents, or explosions which result in a halt or temporary discontinuation of services.

23. "Disease Prevention and Health Promotion" means services which include health screenings and assessments; organized physical fitness activities; evidence-based health promotion programs; medication management; home injury control services; and/or information, education, and prevention strategies for chronic disease and other health conditions that would reduce the length or quality of life of the person sixty (60) or older.

24. "District" means Area Development District pursuant to KRS 205.455(4).

25. "District Long-Term Care Ombudsman" or "DLTCO" means the individual certified by the Kentucky Long-Term Care Ombudsman to implement the Ombudsman provisions of the approved contract agency as defined in 910 KAR 1:210 Section 1 (10).

26. "Education" means providing formal or informal opportunities for older individuals to acquire knowledge, experience, or skills.

27. "Emergency Meals" means meals furnished during inclement weather conditions, power failure, or any disaster that may cause isolation or create a special need pursuant to 910 KAR 1:190 Section 6.

28. "Evidence-based" means criteria required to implement Title III-D funded activities as specified by the ACL and approved by DAIL.

29. "Facility" means a Personal Care Home, Family Care Home, Nursing Home, Skilled Nursing Home, Assisted Living Community and Intermediate Care Facility (ICF) and has the same meaning as "long-term care facility" as defined in KRS 216.515.

30. "First-tier (Tier I) subcontract" means a subcontract awarded directly by the District ADD for the purpose of acquiring goods, services, supplies, components, or other items for performance of a contract.

31. "Frail" means functionally impaired in the performance of two (2) activities of daily living, three (3) instrumental activities of daily living, or a combination of one(1)- activity of daily living and two (2) instrumental activities of daily living as defined in 910 KAR 1:180 Section 4(1)(c).

32. "Friendly Visiting" means physically interacting, providing a social connection, and companionship with a client to offer comfort or assistance.

33. "Homecare Program" means a program that offers in-home support and services to individuals 60 years of age and over who have functional disabilities and are at risk of long-term institutional placement. Services include personal care, homemaker, home health aide, home delivered meals, home repair, chore, respite, escort, and assessment as defined in 910 KAR 1:180 Section 1 (11)(b).

34. "Information and Assistance" means a service for individuals that provides current information about services available within the community as defined in 910 KAR 1:170 Section 1(13).
35. "In-home Services" means (a) Homemaker and home health aides; (b) friendly visiting and telephone reassurance; (c) chore maintenance; (d) in-home respite care for families, including adult day care as a respite service for families; and (e) minor modification of homes (also known as home repair in accordance with KRS 205.455(11)) that is necessary to facilitate the ability of older individuals to remain at home, and that is not available under other programs, except that not more than \$150 per client may be expended under this part for such modification pursuant to 45 CFR 1321.3, 910 KAR 1:170, Section 1, and the DAIL Taxonomy.
36. "Justification" means a written reason, fact, circumstance, or explanation that justifies or defends a change.
37. "Legal Assistance" means legal advice and representation by an attorney or counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney.
38. "NCI-AD" means National Core Indicators – Aging and Disability.
39. "Older Americans Act" or "OAA" means the Older Americans Act of 1965 as amended.
40. "OAAPS" means Older Americans Act Performance System.
41. "OEP" means Open Enrollment Period.
42. "Outreach" means interventions with individuals initiated by an agency or organization for the purpose of identifying potential clients or their caregivers and encouraging their use of existing services and benefits as defined by 910 KAR 1:170 Section 1(19).
43. "Performance Measures" means requirements by the contract to evaluate the outcomes, performance and effectiveness of the program. All deliverables are considered as a performance measure.
44. "Person centered planning" means an individualized planning process that is led by the participant, is timely, occurs at times and locations of convenience to the individual, and offers informed choice, defined as choosing from options based on accurate and thorough knowledge and understanding, to the individual regarding the services, and supports they receive and from whom.
45. "Personal Care" means providing assistance for persons with the inability to perform one or more activities of daily living.
46. "Public Information" means the provision of information, assistance or outreach to a group of individuals including contact with several current or potential client/caregivers.
47. "Public relations" includes community relations and means those activities dedicated to maintaining the image of the governmental unit or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.
48. "Recreation" means the provision of activities which foster the health or social well-being of individuals through social interaction.
49. "Respite" means care provided to an older person by a caregiver for a designated time period due to the absence or need for relief of those normally providing care.

50. "RFP" means Request for Proposal.

51. "State Reporting System" means the database required by the department for program data collection.

52. "Second-Tier (Tier II) subcontract" means a subcontract awarded by a first-tier subcontractor for the purpose of acquiring goods, services, supplies, components, or other items for performance of a contract.

53. "Senior Center Services" means the provision of activities that foster the health or social well-being of individuals through social interactions and leisure as defined in 910 KAR 1:170 Section 1(23).

54. "Service Level" means the minimum contact required through face-to-face visits and telephone calls by the case manager or social service assistant as defined in 910 KAR 1:170 Section 1(24).

55. "SHIP" means State Health Insurance Assistance Program which provides information and assistance to Kentuckians in reference to Medicare benefit assistance and other issues.

56. "Supplemental Services" means services provided on a limited basis through Title III E to complement the care provided by grandparents or caregivers. Examples of supplemental services include, but are not limited to, home modifications, assistive technologies, emergency response systems, and incontinence supplies pursuant to the OAA, Part E, Section 373(b)(5).

57. "Supplies" shall include but is not limited to the following in-home items: incontinent supplies, support hose, nutrition supplements, hearing aid batteries, and glasses.

58. "SOP" means Standard Operating Procedure.

59. "STARS" means SHIP tracking and Reporting System.

60. "Telephone Reassurance" means providing a wellness check by phone with the agreement of the individual in accordance with 910 KAR 1:170 (27).

61. "Third party in-kind contributions" means the value of non-cash contributions (i.e., property or services) that benefit a federally assisted project or program and are contributed by non-Federal third parties, without charge, to a non-Federal entity under a Federal award in accordance with 2 CFR 200.96.

62. "Title III" means programs under Title III of the Older Americans Act of 1965 as amended.

63. "Title III Administration" means administration of the programs for elderly Kentuckians under Title III of the Older Americans Act of 1965 as amended.

64. "Title III-B Supportive Services" means a service to provide community support to people age 60 years and older pursuant to the OAA as amended.

65. "Title III-B Ombudsman" means a program that advocates for the health, safety, welfare, and rights of long-term care residents pursuant to the OAA as amended.

66. "Title III-C1 Congregate Meals" means a meal provided to a qualified individual in a congregate or group setting pursuant to 910 KAR 1:190 Section 1 (6).

67. "Title III-C2 Home Delivered Meals" means a meal provided to a qualified individual in his or her place of residence pursuant to 910 KAR 1:190 Section 1 (14).

68. "Title III-D Disease Prevention and Health Promotion" means a service providing evidence-based disease prevention and health promotion programs to people 60 and older pursuant to the OAA as amended.

69. "Title III-E Caregiver Program" means the NFCSP which assists families to fulfill their roles as caregivers, pursuant to the OAA as amended.

70. "Transportation" means transporting an individual from one location to another.

71. "Upon Request" means 1 business day for requests made in writing and within 1 hour for an onsite visit.

72. "Waiting List" means a formal list of persons determined eligible, and not yet receiving services.

SECTION 2-SCOPE OF SERVICES

2.00-Services Required

The Older Americans Act (OAA) directs each state to develop a comprehensive and coordinated network of providers who can offer services, opportunities, and protections for older Americans to help them maintain health and independence and to be able to continue to function as a part of their community.

Title III of the OAA authorizes funding to state units on aging (SUA) which designate and make funds available to area agencies on aging (AAA) in their states. The SUA in Kentucky is the Department for Aging and Independent Living (DAIL). As authorized by section 305 of the OAA, Kentucky has designated the area development districts to be the area agencies on aging. AAAs identify local needs and fund local services to support older persons and caregivers in their service area. OAA funds are to be used to expand the range of community-based programs and services designed to maintain the independence of older persons in a home environment, to support caregivers, to fill gaps in existing services and to contribute to the development of a comprehensive and coordinated system of services.

Administration of the Nutrition Services Incentive Program (NSIP) cash in-lieu of commodities program, in accordance with Section 311 Older Americans Act of 1965, as amended.

Kentucky has established funding to support, through state dollars homecare, and nutrition programs for older adults – 910 KAR 1:180 and 910 KAR 1:190.

2.01 Deliverables

a) Administrative and Financial

- 1) Utilize the state reporting system to record data on participants on the waiting list.
- 2) Submit a correct budget for all programs to BGADD by the deadline provided upon receiving fiscal year allocations.
- 3) Ensure all invoices with supporting documentation are submitted by the 8th day of each month by 4:30 p.m., Eastern Standard Time or the next business day if the 8th falls on a weekend day or a state holiday. Any corrections to the invoice must be returned to BGADD within 1 business day of notification a correction is needed.

- 4) Ensure ninety-nine percent (99%) of state funds shall be expended by June 30th.
 - A) 25% of all funds should be expended by the end of each quarter. Within 14 days of the end of each quarter, if 25% of funds have not been expended, the Contractor shall contact BGADD to discuss any issues and plans for spending the funds.
- 5) Provide local match equal to or greater than the amount in effect during the prior fiscal year.
- 6) Distribute client satisfaction surveys to measure outcomes and satisfaction. Client Satisfaction Surveys results must be submitted to BGADD/AAAAIL by May 30th, 2025.
- 7) Provide documentation that all staff and volunteers have received training on preventing, identifying, and reporting abuse, neglect, and exploitation of older adults annually.
- 8) Provide documentation that all staff and volunteers have received training on Diversity/Equity and Inclusion annually.
- 9) Provide documentation of homemaker training.
- 10) Provide documentation at monitoring of sixteen (16) hours of training for case managers.
- 11) Submit the top three (3) findings of Homecare internal monitoring on October and April 1st of the current year and the actions taken to correct them.
- 12) Provide documentation that agency staff who interact with citizens have received training from the Office of Dementia Services
- 13) Ensure that all Senior Center staff participate in the Senior Center Community College training and provide documentation that all staff have attended.
- 14) Maintain a resilient, disaster ready network by updating the county disaster plans annually and submit to BGAAAAIL.
- 15) 75% of homebound seniors will be offered an evidence-based physical activity program annually.
- 16) 90% of Senior Centers will offer one smoking cessation intervention annually.
- 17) Reduce number of seniors reporting social isolation by 3 percent through the use of evidence-based interventions each fiscal year.
- 18) Increase private pay, cost share, and voluntary contributions by 20% each fiscal year.
- 19) Ensure that effective communication is established through the use of American Sign Language (ASL) Interpreters, adaptive equipment, or other means to meet the requirements of the ADA is available to individuals who need the accommodation.
- 20) Title III Contractors, ensure representatives are appointed to the BGADD/AAAAIL Advisory Council and they attend at least 75% of the meetings.

21) Title III Contractors, ensure at minimum two (2) approved Title IIID evidenced based programs will be conducted in each Senior Center annually.

22) Ensure that all client information is updated annually in the state reporting system.

23) Ensure that all consumers are provided with local information and assistance while waiting for services.

24) Ensure that each client has an individual disaster plan documented in the state reporting system.

25) Ensure collaboration with local organizations to plan for shelters that can support older adults during disaster.

b) Services

1) Provide the number of services needed to the greatest number of recipients feasible in order to achieve the goals of the approved area plan.

2) Achieve and maintain a 90% accuracy rate on data collection for key demographic data elements annually.

3) If there is a difference +/- 10% in a category, a justification should be provided that adequately describes the circumstances that contributed to the difference. Justifications are used to identify trends, establish priorities, and plan for the future needs of the aging network and service recipients.

c) Title III-B Ombudsman

A) Ensure the resolution rate shall be seventy percent (70%) or higher each quarter. If the district program is not at 70%, the district program shall submit a plan to the Kentucky Long-Term Care Ombudsman and BGADD/AAAIL to increase the resolution rate for the next quarter.

B) Ensure that a Certified Ombudsman, at a minimum, attends at least one nursing facility resident council meeting annually for each long-term care facility that has a resident council established within the district.

C) Document training for new Certified Ombudsman staff or volunteers in the state reporting system. Documentation will show that 100% of Certification Training provided meets the minimum requirement of thirty-six (36) hours of Certification Training and two (2) hours for Friendly Visitors.

D) Provide continuing education training to Certified Ombudsman staff and volunteers to ensure volunteers are aware of ongoing developments and skills needed to maintain health, safety, welfare and rights of residents. District Programs will provide at a minimum, eighteen (18) of continuing education to Certified Ombudsman staff and volunteers and four (4) hours for Friendly Visitors and Advisory Council Members. These trainings may coincide with advisory council meetings. These activities shall be documented in the state reporting system.

d) Title III-E National Family Caregiver Support Program

A) Provide services in accordance with Title III-E of the OAA and BGADD/AAAIL policy and procedure.

B) Each client will have a pre-determined allocation amount. Payments will not be made to the provider for any amount exceeding the pre-determined client allocation.

C) All clients must apply for services through the BGADD/AAAIL Aging and Disability Resource Center. Approved clients will have a completed service request and approval form. Without this signed form, no payment will be approved for services rendered.

D) Invoices must be submitted at least monthly and include the client's signature.

E) Provider will receive end of year invoicing deadlines in May. Payment will not be processed for any invoices received after the end of year deadline.

F) Provider should follow BGAAAIL's SOPs when operating the NFCSP

e) SHIP: State Health Insurance Assistance Program:

The SHIP grant is intended to strengthen the capability of States to provide all Medicare eligible individuals information, counseling, and assistance on health insurance matters. The grant from ACL helps ensure that States have a network of staff and volunteers to provide accurate and objective health insurance information and assistance in making informed health coverage decisions and understanding related rights and protections. The SHIP program shall provide the following:

- A) Counseling and assistance to eligible individuals in need of health insurance; information including but not limited to:
 - a. Information that may assist individuals in obtaining benefits and filing claims under Title XVIII and XIX of the Social Security Act.
 - b. Policy comparison information for Medicare supplemental policies (as described in section 1882 (g)(1) of Social Security Act, as amended) and information that may assist eligible individuals with filing claims under such Medicare supplemental policies.
 - c. Information regarding long-term care insurance.
 - d. Information regarding Medicaid programs, including Medicare Savings Programs.
 - e. Information regarding other types of health insurance benefits that may be provided to eligible individuals in the State.
 - f. Information regarding all Medicare health insurance coverage options.
- B) Counseling to individual beneficiaries unable to access other channels of information or needing and preferring locally based individual counseling services.
- C) Systems of referral to appropriate Federal or State departments or agencies that provide assistance with problems related to health insurance coverage (including legal programs).
- D) Promote awareness of provisions of the Patient Protection and Affordable Care Act, which include:
 - a. Medicare prevention and wellness benefits;
 - b. Fraud prevention and awareness initiatives; and
 - c. Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS), and Competitive Bidding Program.

- E) Participate in the Health Insurance Marketplace as follows:
 - a. When needed, SHIP Staff should refer individuals to other appropriate programs and services including Navigators, Certified Application Counselors, partners, and federal and state resources.
 - b. To serve individuals who are dually eligible for Medicare and Medicaid, SHIP staff should be trained on changes to their state's Medicaid programs, in order to provide accurate counseling.
- F) Establish a sufficient number of staff position (including volunteers) necessary to provide the services of a health insurance information, counseling, and assistance program.
- G) Assure that SHIP staff members (including volunteers) have no conflict of interest in providing health insurance information, counseling and assistance, and abiding by the SHP Security Plan Guidelines for Safeguarding confidential beneficiary information.
- H) Collect and disseminate timely and accurate health insurance information to staff members, including volunteers.
- I) Provide training programs for staff members, including volunteers.
- J) Coordinate the exchange of health insurance information between the BGAAAIL, staff of departments and agencies of the State government, other pertinent federal agencies including ACL, and SHIP staff, including volunteers.
- K) Make recommendations concerning consumer issues and complaints related to the provision of health care to agencies and departments of the federal and state governments responsible for providing or regulating health insurance.
- L) Notify the appropriate BGAAAIL staff of changes in program name, key personnel, contact information, etc. immediately upon learning of the change, but not later than 30 days after a change in contact information occurs.
- M) Perform targeted outreach to counsel low-income, dual-eligible, and hard-to-reach populations in rural areas and individuals with Limited-English proficiency.
- N) Provide beneficiaries with information and assistance concerning Medicare's Preventive Services, Medicare Annual Wellness visit and other healthy living benefits available through Medicare. Provide beneficiaries access to disease prevention and health/wellness information by using outreach and training strategies.
- O) Participate in SHIP training, education and communication activities, such as conference calls, webinars, etc. A portion of funds should be designated for travel expenses to these events (where applicable).
- P) Ensure that newly appointed staff attend DAIL and BGAAAIL sponsored SHIP staff training. A portion of funds should be designated for travel expenses to these events.

- Q) Maintain capabilities to send and receive email communications and other information through the Internet, including expanding/maintaining Internet capability. Counselors must have access to Internet-based enrollment and other counseling tools at the time and place of counseling.).
- R) Permit BGAAAIL to monitor the use of grant funds, providing full information as to use and expenditures.

2.02 Reporting Requirements

a) STATE REPORTING SYSTEM

1) Ensure all reported data is accurately reflected and documented in the State Reporting System no later than the 5th of the following month. The data report information shall match the information submitted on the monthly invoice documents for all programs. Data information shall include:

- A) All data required by the ADRC.
- B) Complete client records, including intake, screening, the DAIL approved assessment, DAIL approved plan of care, and service units.

b) OAAPS State Program Reports

1) OAAPS reports are completed by the states to provide the Administration on Aging (AoA) with a review of the state's annual performance. Three principal types of data are included:

- A) performance data on programs and services funded by the Older Americans Act (OAA);
- B) demographic/descriptive data on the older adult population obtained from the U.S. Census Bureau and other sources; and
- C) descriptive data on the infrastructure of home and community-based services in place to assist older persons, based on ACL studies and related reviews.

2) The state's annual OAAPS report is a roll up compilation of each individual contractor's OAAPS Report. In order to report the regional performance to the Department for Aging and Independent Living, the Contracted Provider shall:

- A) Ensure missing data is not equal to or greater than three percent (3%) in any category.
- B) Correct any missing data indicated by BGAAAIL within 2 business days of notification.

c) Program specific reporting requirements

1) Ombudsman

- A) Ensure that the previous month's cases, complaints, and program activities are documented in State Reporting System by the 15th of each month.

B) Submit a quarterly report on the regional resolution rate to the Kentucky Long-Term Care Ombudsman and BGAAAIL. When the resolution rate is below 70%, submit a plan to increase the resolution rate for the following quarter. Quarterly reports are due October 1st, January 1st, April 1st, and June 30th.

2.) Title III-B

A) Notify BGAAAIL of waitlist updates monthly.

B) Ensure client service information is maintained and updated annually in the state reporting system.

3) Title III-C1 and Title III-C2

A) Ensure cost effective meals by collecting data including the information listed below. The information shall be available to the DAIL Dietitian upon request and/or during monitoring.

B) Track and compare over-produced meal numbers. This would include meals produced, but not consumed by a participant Document the actions taken when overproduction of food occurs. Ensure the provider agencies operate in compliance with the established policy through on-site monitoring twice per fiscal year.

C) Monitor food service operation including the production, distribution and service systems including both congregate and home delivered, twice per fiscal year to evaluate compliance with the Nutrition Program Policy.

D) Standards for food handling and personal hygiene shall be in accordance with the State Food Service Code (902 KAR 45:005).

E) Monitor food-purchasing practices to ensure best cost.

F) Monitor delivery times, routes and meal temperatures.

G) Maintain documentation of Home Delivered Meals clients who were not home to receive meals.

H) Track volunteer numbers and service time.

G) Retain a copy of the daily menu, as served (including substitutions), for a period of 3 years

H) Develop clear, written policies regarding contributions for services that address at minimum, the use of suggested contribution schedules, contribution policies for staff and guests and provisions for protected the confidentiality of individual client contribution amounts.

I) Ensure Title IIIC meal participants have the opportunity for an option to choose a milk/calcium – rich food item for consumption with their meal. This can be skim milk, 1% milk, 2% milk, 1% chocolate milk, calcium fortified orange juice, strawberry yogurt, strawberry banana yogurt or vanilla yogurt.

4) NSIP

- A) Subcontract with the Nutrition Services Provider(s) under the Contractor's APPROVED REQUEST FOR PROPOSAL effective this Subcontract fiscal year to reimburse cash payments in lieu of commodities. The funding cycle for this program is October 1, 2024-September 30, 2025.
- B) Disburse NSIP monies based on total number of eligible meals served. Expend NSIP monies within same grant year from the time payment is received.
- C) Submit monthly food receipts of NSIP eligible meals by the 8th of the following month.
- D) Documentation shall be provided with the monthly invoice that shows meals are domestically produced and processed. The documentation must equal the amount of NSIP funds requested reimbursement.
- E) Meet NSIP Core Performance Measure of ensuring that 100% of funds are expended within the Federal grant year of allocation.
- F) Maintain records to show the amount of cash received and how it was expended. Financial reports, including food receipts totaling the amount of funds requested, shall be submitted to BGADD upon request for payment.
- G) Nutrition Program Management Provider shall solicit bids for any subcontract, for meals based on a request for proposal. Meals shall be bid without regard to funding source and shall contain a ready-to-serve cost and a served-delivered cost.

5) SHIP

- A) Complete and electronically submit 100% of the SHIP Client Contact Forms resulting from one-on-one counseling, events, mailings, emails, fax transmissions, or other counselor to client correspondence, and the Public Outreach and Media Outreach forms according to ACL and DAIL guidelines in the STARS system.
- B) Report STARS data on a monthly basis. This includes data from the Client Contact form and the Public Outreach and Media Outreach and Education Forms.
- C) Submit and maintain registration of Local users of STARS via the STARS website.
- D) Implement STARS data system security procedures required by ACL that are designed to secure and protect the confidentiality of data submitted into the SHIP STARS database. This includes regularly confirming the status of SHP users who access the database, confirming users with unique IDs, and utilizing any other procedures that may be required to maintain a secure system. All passwords and password changes must comply with ACL security requirements. The Contractor shall comply with all ACL security requirements regarding the STARS user accounts associated with its program.
- E) A ten percent increase in the number of client contacts from FY2024
- F) A five percent increase in the number of public outreach and education and media outreach and education from FY2024.
- G) Adhere to the designated Resource Report deadline, as established by DAIL. Failure to submit complete and timely information may affect funding.
- H) Submit monthly progress reports provided by DAIL, as required by policy on the fifteenth (15th) day of each month following the month of service. Failure to report complete and timely information may affect funding.
- I) Retain all records pertaining to the SHIP grant, including STARS data, for a period of three (3) years, after notification of award closeout, as set forth and described by 45

CFR 92.42. Copies or other facsimiles of program records, such as electronic media, are acceptable substitutions for original documents.

- J) Submit the training records for each activity including but not limited to:
 - a. A listing of staff and volunteers
 - b. The training attended
 - c. Date of completion
- K) Implement the Volunteer Recruitment and Program Management (VRPM) to expand volunteer recruitment, retention, management and training.
- L) Advertise SHIP services on the radio to help increase awareness
- M) Enhance its organizational websites for use as a volunteer recruitment tool in addition to providing general information to the public
- N) Create, during the OEP a Part D Savings spreadsheet for the beneficiaries currently receiving Medicare to track their current plans versus them enrolling in a lower estimated cost plan. This is required to be submitted to BGAAAIL twice during the OEP, on November 15th and then at the end of OEP.
- O) Screen everyone who contacts SHIP requesting assistance for LIS/MSP eligibility.
- P) To increase Client Contacts, starting in August/September 2024-25 (before OEP) a letter must be mailed to clients that have received services within the last year from the BGAAAIL SHIP program provider that includes a reminder letter about OEP with instructions on what to do with the Part D worksheet that will be included with the letter. If the client returns the Part D worksheet, the SHIP Counselor/Volunteer will run a plan comparison and either mail or email it back to the beneficiary for review.

2.03 Subcontractors

a) Each Subcontractor shall:

- 1) specify how the provider intends to satisfy the service needs of low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas in the area served by the provider;
- 2) to the maximum extent feasible, provide services to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas in accordance with their need for such services; and
- 3) meet specific objectives established by the Bluegrass Area Agency on Aging, for providing services to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas within the planning and service area.
- 4) Subcontractor providing in-home supports must be a certified personal service agency pursuant to 906 KAR 1:180 Section 2(1) through (4) and KRS 216.710(8).
- 5) Permit BGAAAIL staff to monitor annually, and ensure documentation is maintained and available for BGAAAIL during on-site monitoring, or upon request. Monitoring for Long Term Care Ombudsman services must be performed in coordination with the Kentucky Long Term Care Ombudsman per 910 KAR 1:210.
- 6) Ensure compliance with applicable statute, regulatory, and contract requirements.

7) Ensure service continuity and for the protection of the health, safety and welfare of the clients receiving services under this Contract. A termination notice of contract must be provided to BGAAAIL with a minimum of 30-day notice. Provider shall continue to provide services for the duration of the contract termination notice.

2.04 Bluegrass Area Agency on Aging and Independent Living Responsibilities

Responsibilities of the AAAIL are largely defined by, but not limited to, the OAA Section 306:

- a) Provide, through a comprehensive and coordinated system, for supportive services, nutrition services, senior center services, and other services as designated by DAIL. Supportive Services include but are not limited to Adult Day, Advocacy, Assessment, Assisted Transportation, Case Management, Cash and Counseling, Chore, Counseling, Education, Employment Services, Friendly Visiting, Health Promotion, Home Health Aid, Home Modification, Homemaker, Information and Assistance, Outreach, personal Care, Public Information, Recreation, Respite, Telephone Reassurance, and Transportation,
- b) Provide an adequate proportion of funds for the following categories of services:
 - 1) Services associated with access to services (transportation, health services (including mental and behavioral health services), outreach, information and assistance (which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible), and case management services;
 - 2) In-home services, including supportive services for families of older individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and
 - 3) Legal assistance.
- c) Report to the State agency in detail the amount of funds expended for each service.
- d) Set specific objectives, consistent with State policy, for providing services and outreach to
 - 1) Older individuals residing in rural areas;
 - 2) Older individuals with greatest economic need;
 - 3) Older individuals with greatest social need
 - 4) Older individuals with severe disabilities;
 - 5) Older individuals with limited English proficiency;
 - 6) Older individuals with Alzheimer's disease and related disorders and their caretakers;
 - 7) Older individuals at risk for institutional placement; and
 - 8) Low-income minority older individuals.
- e) Coordinate planning, identification, assessment of needs, and provision of services for older individuals with disabilities, with particular attention to individuals with severe disabilities and individuals

at risk for institutional placement, with agencies that develop or provide services for individuals with disabilities.

f) Serve as the advocate for older individuals within the community.

g) The AAAIL shall collaborate with the Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities State level Mental Health and Aging Coalition and assist the local Mental Health and Aging Coalitions to reach the state level Coalition mission of educating the public, professionals, consumers, caregivers, and other stakeholders, regarding issues related to the aging process and mental health needs of older adults

2.05 General and Administrative Requirements

The Bluegrass Area Agency on Aging and Independent Living, through a variety of contracted providers shall administer all the programs and provide for all the services in accordance with all laws and/or requirements of federal, state, and local fire, health, safety, and sanitation and other standards prescribed in law or regulations; and the terms set forth in this contract, including, but not limited to:

a) Federal Law

1) This grant is subject to the requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards under 45 CFR Part 75. These requirements and additional terms and conditions that are applicable to this award can be found on the ACL website (<https://www.acl.gov/grants/managing-grant>) and include, but are not limited to, the following:

A) Federal Awardee Performance and Integrity Information System (FAPIIS)

B) HHS Grants Policy Statement, Part II

C) Trafficking Victims Protection Act

D) Federal Funding Accountability and Transparency Act (FFATA)

E) Unique Entity Identifier

F) Consolidated Appropriations Act, 2017, Pub. L. 115-31, signed into law on May 5, 2017

b) State Law

1) 910 KAR 1:140

2) 910 KAR 1:170

3) 910 KAR 1:190

4) KRS Chapter 13B – Hearing Procedures Relating to Area Agency on Aging Contractor Selection Actions.

5) KRS 116.048(1)(d) Voter Registration

6) KRS 209.030

7) 910 KAR 1:210

8) KRS 216.541 Willful interference with representatives of Office of the Long-Term-Care Ombudsman prohibited - Retaliation against complainant prohibited - Penalty - Liability insurance for representatives of the ombudsman program.

c) Requirements by the Bluegrass ADD/AAAIL

1) Ensure that all services made available under this Contract are provided and maintained on a continuing basis throughout the fiscal year.

2) Ensure service is in place on the first day of the fiscal year. Any transition costs related to the beginning or termination of a grant will be borne by the Provider.

3) Provide information, upon request of BGADD/AAAIL, concerning all activities performed pursuant to this Contract, including but not limited to, periodic data reporting and data system input concerning program activities or any data that is required by applicable state or federal law.

4) BGADD will never require more documentation of the direct service providers than DAIL requires of the BGADD such that the number of services provided or number of people served by the direct service provider cannot be counted in OAAPS.

5) BGADD will limit the amount of paperwork required of the direct service providers, including using technology where applicable.

6) Utilize the definitions of services provided in this contract including the DAIL taxonomy.

7) Assist BGAAAIL in conducting client surveys regarding aging services. This may include but not be limited to phone surveys, in person interviews, questionnaires, or longitudinal surveys. Results of any surveys will be shared with the District.

8) Attend meetings as scheduled by BGAAAIL, including in-person, telephonic and web-based meetings. When unable to attend, provide notification to BGAAAIL at least one (1) business day in advance to make arrangements with the meeting coordinator to gather information discussed at the meeting.

9) Employ appropriately qualified and trained staff sufficient to carry out the number of programs and types of services provided for participants and provide adequate supervision. A copy of the Provider's current job descriptions must be available upon request.

10) Establish Internet access and maintain at least one business email address that will be the primary receiving point for all email correspondence from BGADD/AAAIL. Provider must notify BGADD/AAAIL of any email address changes within five (5) business days from the effective date of the change.

11) Provide at a minimum the equivalent insurance coverage for real property and equipment acquired or improved with funds under this contract. Providers must provide proof of coverage to BGADD/AAAIL prior to the commencement, and throughout the grant period.

12) Adhere to all deadlines, deliverables, and performance measures stated in this Contract, unless otherwise instructed. Failure to meet deadlines, deliverables, and/or performance measures may result in loss of funds. Willful submission of incomplete or incorrect materials by a deadline in

order to meet the deadline and later submit a corrected version will not be acceptable for this Contract and may result in loss of funds.

13) BGADD/AAAIL reserves the right to alter deadlines, deliverables, and performance measures stated in this Contract if needed to comply with federal or state requirements, to improve the delivery of services, or to assist with the administration of this Contract.

14) Provide appropriate language access services (interpreters, captioners, assistive listening devices, etc.) in accordance with the ADA for all services.

15) Provide staff training and information as needed concerning topic and information supplied by BGAAAIL.

16) Ensure in-home service providers are following CDC guidelines for infectious disease control and are working with their local health department to mitigate the spread of infectious disease.

d) Required General Policies and Procedures

The Provider shall maintain written policies and procedures on the agency website that include but are not limited to the following:

1) Personnel, including salary, conditions of employment, and job descriptions relative to all personnel involved in the delivery of services under this Contract.

2) Continuity of services

3) Reporting abuse, neglect, and exploitation as indicated by KRS 209.030 within 24 hours of learning of such incidences. Notify BGAAAIL program staff as well.

4) A disaster plan that shall include:

A) Maintaining communications between BGAAAIL and City/County Local Officials during the time of a disaster unless telecommunication devices are rendered inoperable.

B) Contacting all homebound clients in the designated disaster area within 48 hours of the initial disaster to ensure health, safety, and welfare. Biweekly contact will occur thereafter until the Provider resumes services for the client. Documentation of each contact shall be entered into the state reporting system.

5) Waitlist for services

A) Enter information in the state reporting system for individuals who are on a waitlist.

B) Maintain local, state, and federal information and resource contact information, including private pay option, to be provided to individuals who are waiting for services.

C) Document community resources offered to individuals placed on the waiting list, including private pay options.

D) Maintain a written policy and procedure regarding wait lists for service.

- E) Maintain a written policy and procedure that addresses the reasons and length of time a client can be placed on and remain in hold status.
 - F) Maintain a written policy and procedure that addresses how often the individuals on the waitlist are contacted and how the waitlist is purged.
- 6) Outreach activities to ensure participation of eligible older persons to inform them about the availability of such assistance with special emphasis on the following groups:
- A) Older persons with the greatest economic need (with particular attention to low-income minority older persons and low-income older persons with limited English proficiency);
 - B) older persons with the greatest social need (with particular attention to low-income minority older persons and low-income older persons with limited English proficiency);
 - C) older persons with severe disabilities;
 - D) older persons with limited English proficiency;
 - E) older persons at risk of institutional placement; and
 - F) older persons with Alzheimer's disease and related disorders with neurological and organic brain dysfunction (and the caregivers of such individuals);
- 7) Identifying and serving older persons with the greatest economic or social need, with particular attention to low-income older individuals, including low-income minority older persons and older individuals with limited English proficiency.
- 8) Satisfying the service needs of low-income minority individuals in the area served by the Provider and serving low-income minority older individuals in at least the same proportion as the population of low-income minority older individuals bears to the population of older individuals of the area served by the Provider.
- 9) Identifying the major languages other than English in the service area and developing a plan for providing service to clients proficient in languages other than English. This plan must include the components outlined in the Policy Guidance on the Title VI Prohibition against National Origin Discrimination as it Affects Persons with Limited English Proficiency which can be found at www.lep.gov16.
- 10) Assure full accessibility of SHIP services to all categories of Medicare eligible individuals, including the aged, disabled, and end stage renal disease patients. SHIP services are to be provided without discrimination on the basis of race, color, national origin, disability, age, sex, or income. Reasonable efforts must be made to accommodate eligible individuals with existing barriers that limit their access to information, e.g., language, visual, hearing or speech impairments, physical accessibility, literacy, and location.
- 11) Coordination and utilization of the services and resources of other appropriate public and private agencies and organizations.
- 12) Obtaining participants' views on the services they receive. Eligible participants' input must be sought and utilized in the planning of services. The service provider must have procedures for obtaining the views of participants about the services they receive. Client surveys, interviews using a structured

method to obtain information, complaint reviews, Boards of Directors or Advisory Council with more than 50% of members over the age of 60 are methods to meet this requirement.

13) Methods to carry out activities to identify older individuals with greatest economic need who may be eligible to receive, but are not receiving, supplemental security income benefits under Title XVI of the Social Security Act, medical assistance under Title XIX of the Social Security Act, and benefits under the Food Stamp Act of 1977 or benefits under any other applicable program. Contractors shall establish methods to assist older individuals in applying for such assistance and such benefits.

14) Procedures for inventory control in compliance with the uniform standards set forth in 2 CFR 200.310-200.316 governing the management and disposition of property which cost was supported by Grant funds.

15) Methods to assure that older persons are provided with volunteer opportunities. Plans for recruitment, training, supervision and recognition shall be included.

16) Procedures for collecting, handling, counting and depositing contributions for Title III and Homecare services. Voluntary contributions shall be allowed and may be solicited for all services for which funds are received under this Act if the method of solicitation is non-coercive. Contributions shall be encouraged for individuals whose self-declared income is at or above 185% of the poverty line.

17) Procedures for informing participants about voluntary contributions in accordance with the Older Americans Act Sec 315(b).

18) Procedures for informing participants in State funded programs about fees and voluntary contributions in accordance with Section 8 of 910 KAR 1:180.

19) Ensure that all individuals receiving Title III and Homecare services have documentation ensure voter registration information has been offered.

20) Ensure the BGAAAIL SOPs are being followed

21) Procedures for encrypting all electronic communications containing Protected Health Information.

2.06 Financial Requirements

a) Budget

1) Create a budget that accurately reflects the administration of the Bluegrass Regional area plan and the services provided to meet the needs of the community as established in the area plan and which replicates the intrastate funding formula at a county level approved by DAIL.

A) Submit a budget for all programs to BGADD at the beginning of the fiscal year according to specific timelines for return on budget provided in a budget instruction letter by BGADD.

B) The cost of operating supplies, personnel, facilities, travel/training, and any additional major cost categories are included in the fixed unit rate per service as established by BGADD/AAAIL.

C) Budget narratives must be included for all budgets submitted to BGADD on a form provided by BGADD, including initial budgets and any budgetary shifts requiring contract modification.

D) Expend a minimum 65% of Title IIIB funds received to carry out part B on Access Services.

2) Adhere to the approved budget, following outlined procedures for amendments.

A) The Provider shall request written approval for any of the following:

(i) to move funds from one service to another,

(I) Funds cannot be moved from one program to another program,

(II) Budgetary shifts between federal fund programs shall follow the Administration for Community Living (ACL) guidance and can only be completed with BGADD approval

(III) Budgetary shifts between Homecare invoice line items

(ii) to reduce the number of services or persons served

3) Designate no more than fifteen percent (15%) of the total original current fiscal year Homecare allocation for in-home supplies

(I) Person centered planning for in-home supplies must be demonstrated in the participants plan of care

b) Cost Principles

The Provider is responsible for efficient and effective administration of federal/state awards and should administer funds consistent with this agreement, program objectives, and the terms and conditions of the funding awards. All costs should be allowable, reasonable, and allocable. BGADD reserves the right to work with the Provider to redesign a program to make it more cost effective and/or customized to a specific community.

1) Allowability of Costs

A) Funds cannot be used:

(i) As match for another federal grant

(ii) To influence political activities

(iii) For the personal gain of an individual through gifts or cash payments

(iv) For illegal activities or to purchase illegal products

B) Funds must be used:

(i) For activities for which the grant is funded

(ii) Documented properly

2) Reasonable Costs

A) The Provider cannot pay more for something than any other entity would in the same circumstances.

(i) The Provider is expected to:

(I) Shop around, compare prices

(II) Buy the best quality at the best price

(III) Seek guidance if unfamiliar with the quality and pricing of a product or service

c) Match Requirements

1) Provide local match equal to or greater than the amount in effect during the fiscal year prior to the period covered by this contract. Failure to provide the required local match may result in a proportionate reduction of state funding.

2) Meet the match requirements through allowable costs and/or third-party in-kind contributions, state funds, or local cash.

3) Provide substantial documentation including, but not limited to, volunteer forms, provider invoices, and floor plan with square footage in order to verify match.

4) Ensure that the application of funds shall be in accordance with requirements for match of the specific funding source, as referenced in 2 CFR 200.29 and 2 CFR 200.306.

5) The federal share of a project cost, as applicable, is earned only when the cost is accrued and the nonfederal share of the cost has been contributed. Receipt of federal funds (through reimbursement) does not constitute earning of these funds. If the Provider is unable to provide the required local match, there will be a proportionate reduction of the federal allotment.

6) Corroborate match as part of the audit process when a program is subject to an audit under Federal Register Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Section C: Subpart F Audit Requirements for programs funded by state funds.

d) Third Party In-Kind (Non-Cash) Contributions

1) The valuation of third party in-kind (non-cash) contributions must be supported with adequate documentation to include, but not be limited to, documentation of size and value of space donated; total volunteer time spent and total value of time including hours and duties performed; and documentation of item contributed.

2) Third party in-kind contributions shall be defined as stated in 2 CFR 200.29, 2 CFR 200.96, 2 CFR 200.306 and its application shall be subject to applicable portions of this regulation, Federal Register Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and contractual provisions.

3) Document received contributions on the budget pages and third-party in-kind documentation shall be submitted with monthly invoices for the month they are received.

e) Program Income

1) The Provider is encouraged to earn income to defray program costs where appropriate, subject to 2 CFR 200.307.

2) Provide all clients an opportunity to voluntarily donate toward the cost of services, as outlined in policies and procedures.

3) Account for, provide source documentation, and expend program income in accordance with 2 CFR 200.80, 2 CFR 200.307, and as further defined by the Administration on Aging (AOA) Policy.

4) Program income collected by a provider may not be used as match. Program income must be reported by program and submitted to the BGADD, with financial reports, for the ADD's approval.

5) All program income must be used for the expansion of services.

6) Program income must be used during the same budget period and in the same program, in which the income is earned.

f) Documentation of Expenditures

1) Accounting records must be supported by such source documentation as canceled checks, bank statements, invoices, paid bills, donor letters, time and attendance records, activity reports, travel reports, contractual and consultant agreements, and sub award documentation. All supporting documentation should be clearly identified with the award and general ledger accounts which are to be charged or credited.

2) Records of expenditures must be maintained for each Award by the cost categories of the approved Budget and actual expenditures are compared with the Budgeted amounts at least quarterly.

3) Ensure that all time billed to case management is spent in administering, planning, facilitation, care coordination, evaluation, and advocating for options and services to meet individuals or caregivers needs through communications, resources, information, and clients' needs.

g) Unexpended Funds

1) Make every effort to expend funds in time allotted. The Provider shall communicate with BGADD frequently about the likelihood of unexpended funds in order for BGADD to identify opportunities for spending within the Region.

2) Acknowledge that funds unexpended at the end of the first six months of this contract may be utilized by one or more counties in the Bluegrass Region for the purpose of carrying out the Regional Area Plan on Aging.

3) Upon confirmation of final closure of audit, or final expenditure report, any funds remaining from the allocation shall be refunded to BGADD.

h) Responsibilities

1) Acknowledge that for state-funded contracts, BGADD reserves the right to withhold payments under this Contract and provide services directly to the counties within the Region if BGADD determines that the Provider's performance under this Contract has endangered the health, safety, or welfare of its clients or if BGADD determines the Provider has failed to comply with Federal or State Laws, including the area plan requirements, regulations, or policies.

2) Acknowledge that if the Provider fails to meet any individual component of these requirements, it shall have all reimbursement request(s) held regardless of funding source, program, and amount until such time as the budget report complies with all requirements set forth above.

3) Monitor and respond to any fiscal and/or program exceptions established by evaluation, monitoring and/or auditing of this Contract, and resolve promptly any monitoring, fiscal and program audit exceptions by making direct payment or reduction of future reimbursement, or by other methods approved by BGADD.

i) Audit Requirements

1) After acceptance by the Governing body, the Contractor shall submit an electronic copy of the final audit report and final audited invoice to BGADD by 4:30 pm Eastern Standard Time, December 31st of the current year. Failure to submit the final audit report by the due date may result in forfeit of unexpended funds.

2) The Contractor shall have a financial audit for the period ending June 30th of the current year conducted in accordance with:

A) Federal Register Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Section C: Subpart F Audit Requirements:

(i) Section 200.501 (a): non-federal entities that expend \$750,000 or more in a year in Federal awards shall have a single audit; or

(ii) Section 200.501(d): non-federal entities that expend less than \$750,000 in a year in Federal awards are exempt from a single audit.

B) Government Audit Standards, 2011 Revision, as issued by the Comptroller General of the United States, and

C) Auditing standards generally accepted in the United States of America.

3) The audit report shall contain a supplemental BGADD Schedule which summarizes Aging funds received by the Contractor. The auditor must issue an opinion on this supplemental schedule. The schedule shall:

A) Present by program the revenues, expenditures, and excess (deficit) of revenues over expenditures. The totals of these programs are to be presented in a separate column. Matching funds are to be separated out by Local Cash, In-Kind, and Program Income.

B) Include an integral disclosure note that shall describe details of deferred revenue.

C) Include notes that describe accounting policies used in preparing the schedule.

D) Note if the Contractor elected to use the 10% de minimis cost rate as covered in Section 200.414 of Federal Register Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Section C: Subpart F Audit Requirements.

4) If the Contractor pays federal or state funds to vendors, contractors, or subcontractors who are not subject to the audit requirements of this contract, then the Contractor shall, at a minimum, provide the final expenditures reports of those entities.

5) If the Contractor is required to make revisions to its fourth quarterly report as a result of the audit, the revised quarterly report shall be marked as "Audited".

6) The auditor or audit firm shall be a member of the American Institute of Certified Public Accountants (AICPA) and be licensed by and registered with the Kentucky Board of Accountancy, which includes being enrolled in a peer review program. The audit firm's professional members shall maintain their professional proficiency through continuing education and training. Auditors assigned to the engagement shall maintain, at a minimum, the Continuing Professional Education (CPE) requirements of the current edition and official interpretations of Government Auditing Standards (a/k/a Yellow Book).

7) The Contractor shall ensure that the auditor, if in agreement with recommendations of the reviewer, makes timely revisions to the audit report or performs additional follow-up audit work in order to correct quality deficiencies, or if not in agreement, responds in writing why the review recommendation is not valid or not warranted.

8) The Contractor shall not pass-on to BGADD or any program funded by BGADD the costs incurred by the independent auditor for time spent correcting deficiencies in audit reports.

9) Any communications with those charged with governance from the independent auditor to the Contractor, immediately upon receipt, and in particular if there are issues or findings of:

A) Abuse, fraud, illegal acts, or noncompliance with provisions of laws, regulations, contracts, or grant agreements, which could have a direct and material effect on determination of financial statement amounts.

B) Significant deficiencies or material weaknesses in internal control over financial reporting or major programs, or material questioned costs.

10) Any correspondence from a federal agency with audit oversight to the Contractor that concerns financial or compliance issues of an audit, immediately upon receipt.

11) For questions concerning audit requirements or requests for audit deadline extensions, please contact the assigned BGADD Financial Liaison.

12) A copy of any Corrective Action Plan as a result of financial statement findings or federal awards findings and questioned costs sent by the Contractor as a response to the independent auditor or to a federal agency.

13) If the Contractor fails to meet any individual component of these requirements, all reimbursement requests shall be held for payment by BGADD regardless of funding source, program, and amount until the audit report complies with all requirements set forth above.

2.07 Program Requirements

a) Service Population and Eligibility

1) Serve any person age 60 years or older in need of service in the project area regardless of other eligibility criteria normally in use by the Provider. The Provider may not impose a requirement as to duration of residency or citizenship as a condition of service. (SHIP/Legal Services Provider only: except where the applicant is undocumented and does not meet the definition for service under VAWA and/or LSC.)

Service must be accessible and available to people with disabilities and limited English-speaking older persons. Priority must be given to providing services that will assist and benefit older persons with the greatest social need, economic need, limited English Proficient and those at risk for institutional placement.

- 2) Provide services to the following older adult demographic groups, at minimum, in proportion to their representation in the overall age 60+ population in their service area:
 - A) Older individuals (60+) with greatest economic need;
 - B) Older individuals (60+) with greatest social need;
 - C) Low-income minority older (60+) individuals; and
 - D) Older individuals (60+) with limited English proficiency.
- 3) Maintain a policy and procedure that ensures Homecare service delivery is person centered and and to notify client of any change in schedule within one (1) business day.
- 4) Maintain a written policy and procedure regarding Homecare supplies noting that a limit has been set at seven-hundred dollars (\$700) per client per fiscal year, based on need.
- 5) Provide services throughout the entire service area for which funding is being awarded.
- 6) Ensure that client eligibility has been determined according to program regulations, prior to the provision of services and that required client information including eligibility, assessments, and journal entries are entered into the state reporting system.
- 7) Ensure that clients meeting program eligibility requirements shall only be removed or denied services if said client meets the requirements of 910 KAR 1:220 (7)(4)(b).
- 8) Ensure Homecare clients meet eligibility as outlined in 910 KAR 1:180 Section 4, Eligibility
 - (A) Utilize a DAIL priority screening. Persons aged sixty (60) and over who are frail, homebound by reason of illness or incapacitating disability, or otherwise isolated shall be given priority in the delivery of services per 910 KAR 1:220
- 9) Ensure that services and information shall be offered to those clients that express a desire to pursue private pay designation, and a policy is in place to provide appropriate language access services (interpreters, captioners, assistive listening devices, etc.) in accordance with the ADA for all clinical services.
- 10) Make the best use of existing resources, including but not limited to the following:
 - A) Incorporating the "informal" network into the services design;
 - B) Using volunteers and other available local resources as appropriate;
 - C) Leveraging local support from local municipalities, foundations, school districts, civic groups, fundraising, etc. to increase funds available and create stronger local ownership of the programs; and
 - D) Coordinating and complementing the existing formal service network – public, non-profit and for-profit.

11) Administer the SHIP program by providing:

A) Counseling and assistance

1. to eligible individuals in need of health insurance
2. to individual beneficiaries unable to access other channels of information or needing and Preferring locally based individual counseling services

B) Information and referral regarding:

1. obtaining benefits and filing claims under Titles XVIII and XIX of the Social Security Act.
2. Policy comparison information for Medicare supplemental policies (as described in section 1882 (g)(1) of the Social Security Act, as amended) and information that may assist eligible Individuals with filing claims under such Medicare supplemental policies
3. long-term care insurance
4. all Medicare health insurance coverage options, including Medicare Savings Programs
5. other types of health insurance benefits that may be provided to eligible individuals in the Region
6. appropriate Federal or State departments or agencies that provide assistance with problems Related to health insurance coverage (including legal problems)
7. other appropriate programs and services including Navigators, Certified Application Counselors, partners, and federal and state resources
8. Medicare's Preventive Services, Medicare Annual Wellness visit and other healthy living Benefits available through Medicare
9. Provide beneficiaries access to disease prevention and health/wellness information by using Outreach and training strategies

C) Promote awareness of provisions of the Patient Protection and Affordable Care Act, which Include:

1. Medicare prevention and wellness benefits;
2. Fraud prevention and awareness initiatives; and
3. Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS), and Competitive Bidding Program

b) Changes to Services

- 1) Notify BGAAAIL in advance of any planned closure of the Provider on a day that would normally be a working day (i.e. staff retreats, unofficial holidays). An agency calendar provided to BGAAAIL is sufficient.
- 2) Notify BGAAAIL as soon as a decision is made for an unplanned closure that will disrupt the provision of services (i.e. senior center or Provider office closed due to inclement weather).
- 3) Provide educational materials to each participant regarding substantial changes to the service delivery of programs within five (5) business days, when indicated to do so by BGAAAIL.
- 4) Post any information regarding local information and assistance changing in services, closure on website and social media.

c) Record Maintenance & Documentation

- 1) Ensure client records are transferred appropriately, when necessary. Upon termination of this Contract, copies of all appropriate records of all active clients and/or participant data shall be provided to the new service provider in accordance with policy.
- 2) Ensure the retention of client-specific records, in a secured physical or electronic location, for five (5) years after the last date of service. All records pertaining to the SHIP grant including STARS date shall be retained for a period of 3 years, after notification of award closeout, as set forth and described by 45 CFR 92.42. Copies or other facsimiles of program records, such as electronic media are acceptable substitutions for original documents.
- 3) Ensure that confidential data is destroyed in accordance with Federal, State, or local privacy laws and regulations.
- 4) Ensure that back-up documentation is provided for any and all expenditures and revenue claimed on all invoices including but not limited to detailed payroll reports, subcontractor invoices, financial system generated reports, and any additional requested documentation.
- 5) Ensure all client documentation is available for review in the state reporting system.
- 6) Ensure documentation is available at monitoring and upon request by BGADD/AAAIL.
- 7) Submit required documentation electronically to the designated BGADD/AAAIL staff.
- 8) Ensure that SHIP staff members (including Volunteers) have no conflict of interest in providing health insurance information, counseling and assistance, and abiding by the SHIP Security Plan Guidelines for safeguarding confidential beneficiary information.
- 9) Document Homecare Client monthly contacts within the client's record in state reporting system that include evaluation of the client's continued need for services and any change in condition or change in status including informal supports, new service providers, reduction or increase of need, and goals.
- 10) Ensure Homecare Client journal entries and notes justifying clients need for service and service delivery shall be entered in state reporting system for all Homecare clients in accordance with the BGAAAIL policies and procedures.
- 11) Document in each Homecare Client's electronic file that resources provided through natural supports have been exhausted before accessing Homecare funds. Documentation shall also include demonstration that the client is not eligible to receive the same services through the Kentucky Medicaid Program or Ky Department of Veterans Affairs programs as applicable.
- 12) Ensure a signed copy of the participant's rights and responsibilities is given to the participant and their legal guardian or POA and the copy of the participant's rights and responsibilities document is placed in the participant's electronic or paper file, as applicable. Electronic signatures and electronic storage are acceptable.

d) Training

- 1) Staff providing services under this contract, including staff of subcontractors, should be adequately trained to fulfill their duties.

2) Ongoing training should be provided by the Contractor to staff providing services under this contract. Topics should be relevant to the job duties and population served. The number of hours of training should reflect the type of position (i.e. more training hours for a social worker or case manager).

(a) all Homecare Case Managers shall complete sixteen (16) hours of in-service training on aging and disability related topics every fiscal year. Documentation of each case manager's training shall be kept by the Contractor and available for monitoring or upon request by BGAAAIL.

3) Documentation of training shall be available upon request and should indicate the training date, number of hours, training topic, the trainer, and validation by signature or electronic means (i.e. an email certificate or webinar screenshot).

4) All staff and volunteers shall be trained annually on preventing, identifying, and reporting abuse, neglect, and exploitation of older adults. Training should be provided by individuals or organizations with expertise in working with older adults and educated in elder justice.

5) All staff and volunteers shall complete Dementia training offered through the Office of Dementia and supported by BGAAAIL.

6) SHIP counselors should be trained and receive regular updates on Medicaid changes, Medicare changes, Medicare Advantage, initiatives impacting the dual eligible population, and other relevant health insurance information.

7) All online training shall be submitted to BGAAAIL for pre-approval.

8) Mandatory training for SHIP counselors shall include:

- Prescription Drug Plan and Medicare Health Plans
- Filing original Medicare and private insurance claims and/or preparing Medicare appeals
- Comparing policies and explaining what services each policy provides
- Complying with data and performance reporting through SHIP reporting and Tracking System

(STARS)

- Policy and procedures for basic SHIP administration
- Volunteer Management
- Program Integrity and quality assurance

9) Participate in web-based and virtual trainings as directed by BGAAAIL.

10) Racial equity and cultural humility training, and organizational efforts reflective of the individuals residing in the region according to the most recent census report. Training should be provided by individuals or organizations with expertise in the field of racial equity and connected to organizational efforts that focus on external equity issues (e.g., program outcomes) as well as internal equity issues (e.g., a racially equitable workforce).

11) Suicide Intervention Awareness

12) Homecare Case Managers shall work with the Kentucky Department of Veterans Affairs to ensure coordination of benefits to those who may be eligible for programs and assistance.

13) Ensure Homecare homemakers providing in-home services are adequately trained.

A) Each new homemaker shall be provided a training course with a minimum of eight (8) hours

of coursework. In addition, new employees shall shadow an experienced homemaker for at least eight (8) hours.

(a) Training topics shall include but not be limited to:

- a. Working with Older Individual
- b. Working with Individuals with Disabilities
- c. Client Confidentiality
- d. Maintaining a Clean and Safe Environment
- e. Recognizing and Reporting Abuse, Neglect, and Exploitation
- f. Skills-related training to perform job duties
- g. Cultural humility
- h. Person-Centered services

(b) Training for new employees shall be provided at a frequency that allows direct service providers to adequately hire and on-board staff in order to meet the needs of clients.

B) Homemakers shall be provided a minimum of eight (8) hours of training annually.

Training may be provided by:

- (1) A recognized institution of learning such as a vocational school, a community college;
- (2) An agency charged with education of the public in health-related matters such as the American Red Cross;
- (3) Or may be provided by the employing agency utilizing a designated coordinator and appropriate professional specialists as instructors;
- (4) Instructors shall include a nurse; a social worker; a home economist; nutritionist or dietitian; professional or homemaker employees

14) A record of training and attendance must be kept and provided during monitoring or upon request.

a) Records should adequately depict the subject, number of hours, and other pertinent information to assure these standards have been met.

e) Staffing for Homecare

A) Provide sufficient supervisory staff to ensure effective administration and coordination of the Homecare program with the following duties:

- (a) meet all requirements of 910 KAR 1:180
- (b) Perform in-house monitoring of 10% of case records, documenting findings on a quarterly basis
- (c) Take corrective actions on areas identified as deficient
- (d) Provide in-house trainings and technical assistance based on the findings
- (e) Provide in-house review of 25% of all closed cases prior to final close.

Documentation of findings and resolutions should be available at monitoring

B) Provide sufficient staff to carry out case management and assessment duties described in 910 KAR 1:180 who meet the requirements outlined in 910 KAR 1:180, Section 5 and also perform the following duties:

- (a) Document community resources offered to individuals placed on the Homecare Waitlist
- (b) Document in the client's electronic record, on a monthly basis, contacts that include evaluation of the client's continued need for services and any change in condition or change in status including informal supports, new service providers, reduction or increase of need, and goals

- (c) Review a social security award letter, bank statement, or official document to verify income and document in the client's file. Document in the state reporting system.
- (d) Determine client eligibility, including any required fees utilizing the Homecare fee Schedule
- (e) Utilize the person-centered planning approach and document the process in the client record including who was involved, agency, and services they will provide
- (f) Record in electronic file informal and formal supports in the homecare client's plan
- (g) Record all contacts with the client and/or caregiver, ensuring a minimum of one (1) contact per month
- (h) Do not duplicate Medicaid Waiver services and document ineligibility of same or similar services through Medicaid in the client's file
- (i) All documentation should be recorded in the state recording system.

C) Ensure that in-home service providers have a scheduling supervisor who monitors and communicates the delivery of services to the case management provider

D) Ensure staff fulfilling the duties of social service assistant (SSA) meet program qualifications per 910 KAR 1:180, 1 (19)(a-h)

f) Volunteers

- 1) Ensure volunteers that are providing direct service are trained on their role and the Federal, State, local, and contractual requirements of their duties.
- 2) Ensure volunteers performing the work of a paid staff position meet all qualifications of the position.
- 3) Maintain volunteer records including but not limited to training, total number of volunteers, training hours provided, job description, and work completed.
- 4) Provide or arrange for appropriate insurance coverage to protect volunteers from personal liabilities.

g) Acknowledgements

- 1) Ensure public awareness materials supported with state/federal funds and allocated to the Contractor through this Contract contain the following statement: "This information is made possible by state and/or federal funding provided by the Kentucky Department for Aging and Independent Living."

SHIP materials: "This publication/project was supported by Kentucky with financial assistance, in whole or in part, through a grant from the Administration for Community Living"

2.08 Requirements Specific to Title III Programs

a) Intake and Screening

- 1) Registered Services as Defined by the Administration on Community Living

A) Utilize ADRC screening to determine eligibility for Title III programs and to provide community resources to potential clients on the waiting list for Title III services.

- B) Provide person centered planning and transition support for consumers and families with multiple needs.
- C) Record in state reporting system those demographics required by the Administration for Community Living.

2) Unregistered Services

- A) Record in state reporting system those demographics required by BGAAAIL and DAIL and make reasonable effort to record additional demographics.

b) Match Requirements

Program	Federal	State/Local
Title III Administration	75%	25%
Title III-B Supportive Services,	85%	15%
Title IIIC-1, Congregate	85%	15%
Title IIIC-2, Home Delivered Meal	85%	15%*
III-D Health Promotion and Disease Prevention	100%	n/a
Title III-E National Family Caregiver Support Program	75%	25%
*5% of the 15% Match Requirement must come from state sources.		

c) Additional Requirements for Title IIIB Supportive Services

- 1) In-home services shall only be contracted with those personal service agencies certified pursuant to KY Office of the Inspector General. This certification must remain effective for the duration of the contract year.
- 2) Provide in-home services to clients based upon the client's needs assessment.
- 3) Ensure current services provided to the client reflect the care plan.
- 4) Report in-home client contacts and any change in the client's status in state reporting system
- 5) Utilize the person-centered planning approach and document the process in the client record including who was involved, the agency, and services they will provide.
- 6) Providing general information to or conducting follow-up for potential clients on the waiting list may not be recorded as a case management service, but may be recorded as a supportive service where applicable (i.e. information and assistance).
- 7). Ensure homemakers providing in-home services are adequately trained.
 - A) Each new homemaker shall be provided a training course with a minimum of eight (8) hours of coursework. In addition, new employees shall shadow an experienced homemaker for at least four (4) hours.
 - a. Training topics shall include but not be limited to:
 - 1. Working with Older Individuals
 - 2. Working with Individuals with Disabilities

3. Client Confidentiality
4. Maintaining a Clean and Safe Environment
5. Recognizing and Reporting Abuse, Neglect, and Exploitation
6. Skills-related training to perform job duties

b. Trainings for new employees shall be provided at a frequency that allows direct service providers to adequately hire and on-board staff in order to meet the needs of clients.

B) Homemakers shall be provided a minimum of six (6) hours of training annually.

C) Training plans must be approved by BGAAAIL.

D) A record of training and attendance must be kept and provided during monitoring or upon request.

a. Records should adequately depict the subject, number of hours, and other pertinent information to assure these standards have been met.

d) Additional Requirements for Ombudsman

1) Ensure compliance with 910 KAR 1:210.

2) Engage with community partners to inform and educate residents, organizations, the long-term care industry, and the general public on issues affecting the long-term care system, the Ombudsman Program, and resident rights per 910 KAR 1:210 Section 4(2)(j).

3) Participate in elder abuse prevention activities including but not limited to:

A) Training facility staff

B) Providing information to facility residents

C) Providing information to caregivers, family, friends, and support networks of facility residents

4) Ensure that for maintenance of effort, the Contractor shall expend on activities of the Ombudsman Program not less than the amount of Title III funds expended by the Contractor in Federal Fiscal Year 2019, pursuant to section 306 (9) (A) of the Older Americans Act. If the Contract fails to meet any individual component of this requirement it shall have a reduction in administrative funds equal to the unmet maintenance of effort for this program for the next fiscal year.

5) Provide thorough documentation in state reporting system including but not limited to:

A) Ombudsman activities

(i) complaints closed

(ii) consultations to facility staff

- (iii) information and assistance to individuals
- (iv) participation in facility surveys
- (v) resident council participation
- (vi) family council participation
- (vii) facility visits

B) Training

- (i) volunteer ombudsman
- (ii) friendly visitors
- (iii) ombudsman staff
- (iv) facility staff

C) Community Education

- 6) Employ one (1) full time District Long-Term Care Ombudsman.
 - 7) Recruit volunteers to ensure adequate presence in each long-term care facility.
 - 8) Increase long-term care resident knowledge of home and community based long-term services and supports options.
- e) Additional Requirements for Title III-C1 Congregate Meals and Title III-C2 Home Delivered Meals
- 1) Ensure every meal shall provide one-third (1/3) of the dietary reference intake (DRI), meet the requirements of the most recent Dietary Guidelines for Americans, and have been approved every 3 years or at each bid cycle (whichever is the less duration) by a Kentucky dietitian or certified nutritionist. This includes emergency and shelf-stable meals.
 - 2) Ensure Title III-C meal participants have the opportunity for an option to choose a milk/calcium – rich food item for consumption with their meal. This can be skim milk, 1% milk, 2% milk, 1% chocolate milk, calcium fortified orange juice, strawberry yogurt, strawberry banana yogurt or vanilla yogurt.
 - 3) Employ a site director on a paid or volunteer basis who is responsible for activities at the site. OAA Title III-C1 funds may pay a maximum of five (5) hours per day of the site director's time.
- f) Additional Requirements for Title III-C1 Congregate Meals
- 1) Provide one (1) hot or nontraditional congregate meal per day, five (5) or more days per week, within each county (except in a rural area where such frequency is not feasible and less frequency is approved in writing by BGAAAIL).

A) All exception requests must be approved by BGAAAIL before the Contractor can serve congregate meals less than five (5) days per week in a rural area.

2) Perform nutrition screening using questions required by DAIL at intake and at least annually thereafter.

a. The score assigned to each question and the total score shall be recorded in state reporting system.

3. Implement a plan for nutrition education that shall include a minimum of one (1) session each month. Information provided should be derived from a reputable, professional source.

g) Additional Requirements for Title III-C2 Home Delivered Meals

1) Administer Title III-C2 Home Delivered Meals in accordance with the OAA, 910 KAR 1:190 and the provisions of this contract.

2) Provide one (1) hot or nontraditional home delivered meal per day, five (5) or more days per week.

3) Perform nutrition screening using questions required by DAIL at intake and at least annually thereafter.

A) The score assigned to each question and the total score shall be recorded in state reporting system.

4) Implement a plan for nutrition education that shall include a minimum of one (1) session each month. Information provided should be derived from a reputable, professional source.

5) Ensure clients meet eligibility as outlined in 910 KAR 1:190 Section 2(3), Eligibility and document how participants of home delivered meals meet eligibility:

A) unable to attend a congregate site because of illness or an incapacitating disability and

B) there is no one in the home able to prepare a nutritious meal on a regular basis.

6) Provide documentation of approval for provision of non-traditional meals.

A) Include documentation of contact with participants who receive non-traditional meal delivery less than once a week.

B) Complete and retain non-traditional meal assessments on all Home Delivered Meal clients receiving non-traditional meals and record the following items in the participant's record:

(i) The need for further nutrition and/or malnutrition risk intervention as determined by a score of six (6) or greater and malnutrition risk score of 2.

(ii) Intervention provided based on score.

(iii) Follow up on previous interventions.

h) Additional Requirements for III-D Disease Prevention and Health Promotion **(Title IIIB Providers Only)**

- 1) Administer Title III-D Disease Prevention and Health Promotion services and information that are evidence-based at senior centers, at congregate meal sites, or through home delivered meals programs, or other appropriate sites in accordance to section 361 of the OAA, any policies and procedures required of the chosen program, and the provisions of this contract.
- 2) Ensure Title III-D funds are only utilized for programs that have been, through rigorous evaluation, demonstrated to be evidence-based and effective according to the definitions of the ACL and approved by BGAAAIL.
- 3) BGAAAIL reserves the right to limit the programs available for selection to more efficiently utilize financial resources and improve the health outcomes across the Region.
- 4) All programs utilizing Title III-D funding must be pre-approved by BGAAAIL. Contact Sarah Eldridge at seldridge@bgadd.org for program approval.
- 5) Contractor must provide a minimum of two (2) BGAAAIL approved evidence-based intervention in each Senior Center per fiscal year.
- 6) Each Title IIIB Provider must engage with local health departments to promote smoking cessation among older adults.

i) Additional Requirements for Title III-E National Family Caregiver Support Program

(Title IIIE Provider Only)

- 1) Participate in conference calls and attend BGAAAIL meetings or trainings as scheduled and requested by BGAAAIL.

2.09-Monitoring Requirements

The ADD shall monitor and evaluate the performance of activities under of all programs in accordance with this Contract, (45 CFR 1321.11), 910 KAR 1:220, 910 KAR 1:210, 910 KAR 1:180 and all other federal and state laws, regulations, and licensure requirements.

- a) Contractor shall ensure that client eligibility has been determined, according to each program regulation, prior to the provision of services and entered into state reporting system and STARS prior to service implementation.
- b) Contractor shall respond to BGAAAIL monitoring reports by submission of and compliance with a corrective action plan based on monitoring results.
- c) Provide training and technical assistance regarding corrective action plans as needed.

2.10-Related Documents and Materials Incorporated by Reference

KRS Chapter 13B Administrative Hearings KRS 45A Kentucky Model Procurement Code

KRS 116.048 Voter registration agencies

KRS 147A.115 Annual reports of receipt and expenditure of state and federal funding

KRS 205.211 Secretary to correct any underpayment or overpayment of public assistance benefits KRS 209.030 Reports of adult abuse, neglect, or exploitation

200 KAR 2:006 Employees' reimbursement for travel

KRS 216.541 Willful interference with representatives of Office of the Long-Term-Care Ombudsman prohibited - Retaliation against complainant prohibited - Penalty - Liability insurance for representatives of the ombudsman program.

KRS 216.710 Personal services agencies

200 KAR 2:006 Employees' reimbursement for travel

910 KAR 1:140 Appeal Procedures

910 KAR 1:170 Older Americans Act Supportive Services for the Elderly

910 KAR 1:180 Homecare program for the elderly

910 KAR 1:190 Nutrition program for older persons

910 KAR 1:210 Kentucky Long-term Care Ombudsman Program

910 KAR 1:220 General administration, programs for older individuals and persons with disabilities

2020 Reauthorization of the Older Americans Act

2.11 - Equipment and Property

The Vendor shall not purchase equipment or property with contract funds, unless and except as specifically authorized under the scope of work and specifications of this Contract.

If equipment and property purchases are specifically allowed by the Scope of Work the following shall apply:

A. Requirement of Inventory

1. Inventory Tracking

The Vendor shall conduct a complete, physical inventory of all equipment and/or furniture purchased with funds from this contract and provides such upon monitoring annually. If missing, Said items shall be submitted to the contract specialist identified on the title page as well as acknowledgement that the item was located or missing, and where applicable the steps taken to locate the item and/or report such to the police. If an item is/has been transferred to another location or there is a custodian change, a CHFS-117 form is to be immediately completed and routed to the BGAAAIL Director.

2. Loss/Destruction

The Vendor shall immediately notify the BGAAAIL if an item purchased with funds through this Contract is damaged, missing, or stolen. In compliance with KRS 45.313, the Vendor shall forward in writing to BGAAAIL the item description and corresponding property tag number with

a written explanation of how the item was damaged, missing, and a police report if the item was stolen.

3. Surplus

All Region owned property and supplies no longer needed, may be declared surplus and disposed of upon prior approval from the BGAAAIL. Upon identification of items to be surplus or returned, the Vendor shall complete a B-217 and mail it to the BGAAAIL Director within thirty (30) calendar days when any of the following occurs:

- a. The equipment or furniture is no longer needed by the Vendor and is available for surplus;
- b. The contract is terminated; or
- c. The contract period ends and will not be renewed.

Upon receipt of the B-217, the Agency's property officer shall review the fixed asset information and advise if the disposal method requested is approved. If the item(s) were purchased by federal funds, any funds received from the sale of the equipment having an acquisition cost of \$5,000 or more, must be credited against the appropriate federal grant.

As soon as possible, but no later than five (5) business days of terminating this contract for any reason, the Vendor shall deliver to BGAAAO: a complete and current inventory, including the information referenced in Section 9.48, of any and all of the Agency's equipment and furniture in its possession, custody, or control. Within thirty (30) business days of the contract expiration/termination date, the Vendor shall return or make available any equipment and/or furniture.

If needed, both the CHFS 117 and 217 forms can be obtained by contacting Sole Point of Contact listed on the Title Page.

SECTION 3-PRICING/INVOICING

a) Payments by BGADD to the Contractor shall be conditioned upon:

- 1) receipt of appropriate, accurate, and actual invoices along with backup documentation including source documentation,
- 2) receipt of invoices by the 8th day of the month following month of service,
- 3) continued satisfactory performance, as determined by BGAAAIL, and
- 4) the availability and allocation of local agency or governmental funds, or state or federal funds necessary to finance the performance of the services described in this Contract.
- 5) Payment by BGADD to the Contractor shall be made only after approval and full execution of this Contract.
- 6) Reimbursement of actual allowable expenditures shall be made in accordance with the approved budget and only after the BGADD Financial Officer or their designee has approved the invoice. Payment shall be made upon receipt of funds from CHFS/DAIL to BGADD.

b) Pursuant to KRS 205.211, the CHFS Cabinet Secretary has the authority to correct any underpayment or overpayment of public assistance benefits.

c) Requirements for Invoices

Invoices may be submitted between the sixth (6th) and eighth (8th) day of each month following the month of service to BGADD by the Contractor.

Invoices must be submitted in accordance with Section 3.00 A – Payment and at a minimum include:

- A) Vendor's name and address.
- B) Program that invoice(s) are using for funding.
- C) Clearly list dates of service (from and to) in stated format example: January 1, 2025 to January 31, 2025.
- D) The dates covered by the invoice must be between the first day of the month and the last day of the month. Invoices cannot cover part of a different month. For example, April's invoice would be April 1 through April 30, not April 1 through May 19.
- E) Total amount due for the current billing cycle.
- F) Cumulative total for all invoices to date.

If invoices are not received by the 8th, no approval or payment will take place until the following month's submission of invoices. In this event, individual monthly invoices are required and will not be accepted in a combined amount on a single invoice.

If notification of incorrect invoices is received, the Contractor will have one (1) business day to respond.

If invoices are not correct in totality (financial and programmatic) within one (1) business day, payments will not be made until the following month with the submission of that month's invoice.

The above policies exclude the procedures for the month of June.

- A) June invoices shall be due to BGADD in compliance with the Commonwealth's fiscal year close out procedure.
- B) A closing memo will be issued to the Contractor upon notification to BGADD by DAIL providing the timeline that must be adhered to for the June invoicing schedule.

All services billed must be documented as required in state reporting system and/or other program-specific systems. **Required data on invoices or invoice backup forms must match data recorded in state reporting system.**

Invoices for payment shall be submitted electronically to the BGADD Aging Accounting Specialist.

Payment shall be conditioned upon receipt of appropriate, accurate, and acceptable invoices submitted in a timely manner.

The Contractor shall submit monthly invoices. The invoice must include at a minimum:

1. Vendor's name and address.
2. Program that invoice(s) are using for funding.
3. Clearly list dates of service (from and to).

Example

Monthly Invoice: Dates of Service from: July 1, 20XX to: July 31, 20XX

4. Date of Invoice (date invoice is prepared). July's invoice should be prepared no later than August 15, 20XX.
5. Total amount due for the current billing cycle.
6. Cumulative total for all invoices to date.
7. Detailed description of services provided.

Invoices that do not contain the requirements above will be rejected and sent back to the Contractor for re-invoicing.

d)--BGADD shall recoup any funds it determines are unallowable, excessive, and unreasonable. All costs must follow the guidelines set forth below:

e) Payment will be made to Contractor via electronic banking transaction upon BGADD receiving payment from CHFS/DAIL.

SECTION 4-BGADD GENERAL TERMS AND CONDITIONS

4.00-Memorandum of Agreement Standard Terms and Conditions

4.00.01-Contract Components and Order of Precedence

The BGADD's acceptance of the Contractor's offer indicated by the issuance of a Contract Award by the BGADD and approved by the BGADD Executive Board shall create a valid Contract between the Parties consisting of the following:

1. This written agreement, all attachments thereto, and any subsequent written amendments to this Agreement; and
2. The Contractor's final written budget or proposal.

In the event of any conflict between or among the provisions contained in the Contract, the order of precedence shall be as enumerated above.

4.00.02-Term of Contract

The term of the Contract is to be for the period of July 1, 2024 through June 30, 2025

The Terms and Conditions of this Contract may be extended or amended according to the provisions of KRS Chapter 45A.

4.00.03-Changes and Modifications to the Contract

Pursuant to 200 KAR 5:311, no modification or change of any provision in the Contract shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Contractor and the BGADD, and incorporated as a written amendment by the BGADD/AAAIL prior to the effective date of such modification or change. Modification shall be subject to prior approval from the Bluegrass Aging Advisory Council, or this authorized designee, and the BGADD Executive Board. Memoranda of Understanding, written clarification, and/or correspondence shall not be construed as amendments to the Contract.

If the Contractor finds at any time that existing conditions make modification of the Contract necessary, it shall promptly report such matters to the Contract Specialist identified on page 1 for consideration and decision.

4.00.04-LRC Policies

Pursuant to KRS 45A.725, LRC has established policies which govern rates payable for certain professional services. These are located on the LRC webpage and would impact any contract established under KRS 45A.690 - 45A.725, where applicable.

A link to the LRC webpage is as follows:

See: <https://apps.legislature.ky.gov/moreinfo/Contracts/homepage.html>

4.00.05-Choice of Law and Forum

This section does not apply to governmental or quasi-governmental entities.

This contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. Any action brought against the BGADD on the contract, including but not limited to actions either for breach of contract or for enforcement of the contract, shall be brought in Franklin Circuit Court, Franklin County, Kentucky in accordance with KRS 45A.245.

4.00.06-Authorized to do Business in Kentucky

The Contractor affirms that it is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded.

If a foreign entity, The Contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this Contract. Such registration is obtained from the Secretary of State, who will also provide the certification thereof.

4.00.07-Registration with the Secretary of State by a Foreign Entity

Pursuant to KRS 45A.480(1)(b), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by KRS 14A.9-010 to obtain a certificate of authority to transact business in the Commonwealth ("certificate") from the Secretary of State under KRS 14A.9-030. If the foreign entity is not required to obtain a certificate as provided in KRS 14A.9-010, the foreign entity should identify the applicable exception. Foreign entity is defined within KRS 14A.1-070.

4.00.08-Payment

The Contractor shall maintain supporting documents to substantiate invoices and shall furnish same if required by BGADD. The invoice must conform to the method described in Section 2.06 and 3-Payment and Invoicing Requirements of this Contract.

4.01-General Provisions

4.01.01-Headings

The section headings in this Contract are for reference and convenience only and shall not have any effect on the construction or legal effect of this Contract.

4.01.02-Assignment

This Contract shall be binding upon and inure to the benefit of the respective legal successors of the Parties. However, neither this Contract nor any rights or obligations hereunder may be assigned, in whole or in part, without the prior written consent of CHFS, and BGADD Executive Board.

4.01.03-No Required Use of Contract

This Contract does not guarantee any minimum use of services. The BGADD/AAAIL reserves the right to leave all, or any portion, of the contract unused and/or to establish other contracts for additional and/or related services.

The BGADD/AAAIL may undertake or award other contracts for additional or related work, services, supplies, or commodities, and The Contractor shall fully cooperate with such other contractors and BGADD/AAAIL employees. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by BGADD/AAAIL employees.

4.01.04-Severability

It is understood and agreed by the Parties that if any part, term, or provision of this Contract is held by the courts to be illegal or in conflict with any law of the Commonwealth of Kentucky or of the United States of America, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular part, term, or provision held to be invalid, if the remainder of the Contract is capable of performance.

4.01.05-Indemnification

The Contractor shall indemnify and hold harmless BGADD and its agents, representatives, officers, directors, employees, insurers, successors, and assigns from and against any and all expenses, costs (including attorneys' fees), causes of action, liability, loss and/or damages suffered or incurred by it or any of them, that results from or arises out of (a) this Contract; (b) any and all acts of the Contractor and or its Subcontractor(s); (c) the policies and procedures of the Contractor, specifically including all Contractor employment practices employed by Contractor during the term of this or any prior Contract with BGADD; (d) any dishonest, fraudulent, criminal, or negligent or unauthorized acts or errors or omissions which are committed by Contractor or any of Contractor's employees or agents or Subcontractors; (e) the publication translation, reproduction, delivery, performance, use or disposition of any data produced by BGADD in an unauthorized manner, provided that such action was not taken by Contractor or as a result of the express written request of CHFS; or (f) Contractor's failure to comply with any applicable state or federal laws or regulations.

4.01.06-Sovereign Immunity

The Parties expressly agree that no provision of this Contract constitutes a waiver by BGADD or the Commonwealth of Kentucky of any immunities from suit or from liability that BGADD or the Commonwealth of Kentucky may have by operation of law.

4.01.07-Force Majeure

Events or conditions beyond the reasonable control of the Parties shall not be construed as non-performance, nor shall reductions be applied as a result of such events. Events or conditions beyond the Party's reasonable control include, but are not limited to, natural or man-made disasters, weather events, transportation crashes, labor strike or shortage, war, riot or other civil unrest, or state or national declared emergency, including a pandemic, or public utility failures. However, BGADD retains the right to obtain the necessary services elsewhere in the event of such non-performance by the Contractor. In this event, the Parties shall negotiate in good faith any appropriate offset to the compensation payable under this Contract. The Contractor shall cooperate and shall require that any Subcontractor cooperate with BGADD in such event. The existence of such causes of delay or failure will extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. Each Party must inform the other, orally or in writing, as soon as possible of the existence of a force majeure event. In order to preserve this right as a defense each Party must inform the other in writing, with confirmation of receipt, within twenty (20) business days of the existence of a force majeure event or otherwise waive this right as a defense to a claim by the other Party of non-performance.

4.01.08-Maintenance of Insurance

During the term of this Contract, The Contractor shall maintain and shall require any Subcontractor to maintain their directors and officers liability insurance, Workers' Compensation insurance, employer liability insurance, and such other liability insurance as reasonably necessary in The Contractor's business judgment to provide adequate coverage against losses and liabilities attributable to the respective acts or omissions of The Contractor and the Subcontractor(s) in the performance of this Contract. The Contractor shall provide or cause to be provided and shall require any Subcontractor to provide or cause to be provided evidence of such coverage upon request.

To the extent that The Contractor and any Subcontractor are not self-insured, each shall, in any event, name BGADD as an additional insured on any policy of coverage, with the exception of the Workers' Compensation and any reinsurance. The Contractor and any Subcontractor shall notify BGADD of the evidence of insurance coverage within five (5) business days of coverage. Notice shall be sent in writing to BGADD.

BGADD shall not be responsible for any premiums or assessments on the policy or policies held by The Contractor or any Subcontractor under this Contract. BGADD may, at its sole option, pay one or more premiums, if it decides that to do so would be in the best interest of the Program. Should BGADD exercise this option, it shall be fully reimbursed by The Contractor, either by The Contractor directly or by an offset against future payments.

The Certificate of Insurance for any policy other than self-insurance or any reinsurance must require that the insurer shall not cancel the coverage without thirty (30) days prior written notice to BGADD.

The Contractor shall notify BGADD within five (5) business days of any cancellation or interruption of The Contractor or Subcontractor's insurance coverage. BGADD shall require in any subcontracts that the Subcontractor provide such notice within five (5) business days to The Contractor and BGADD. The Contractor shall assure and require that any Subcontractor assure that insurance is in effect at all times during the life of this Contract. If their respective insurance coverage expires at any time during the term of this Contract, The Contractor and any Subcontractor shall provide at least thirty (30) calendar

days prior to the expiration date, to the extent possible, a new Certificate of Insurance evidencing coverage as provided herein for not less than the remainder of the term of this Contract.

4.01.09-Licensure, Certification, and Registration

The Contractor shall:

1. Ensure that all appropriate licenses, registrations, and/or certifications necessary for performance under this contract are in good standing and maintained at all times; readily accessible; and available for production upon request.

4.01.10-Permits, Licenses, Taxes, and Laws

The Contractor shall procure all necessary permits and licenses and abide by all applicable laws, regulations, and ordinances of all federal, state, and local governments in which work under this Contract is performed.

To the extent required by law, The Contractor shall pay any sales, use, personal property and income taxes related to this Contract. Any other taxes levied upon this Contract, shall be borne by the Contractor.

Contractor shall be responsible for all applicable Federal (including FICA), State and Local tax withholdings.

4.01.11-Legal Proceedings

Except as specifically disclosed in writing to BGADD by The Contractor, prior to the date of this Contract, The Contractor certifies there are no suits, investigations, or other proceedings pending or threatened against The Contractor or any Subcontractor that would have a material effect on The Contractor's ability to perform under this Contract, or on Subcontractors ability to perform under their respective subcontracts, if applicable. Further, The Contractor shall notify BGADD within one (1) business day, and in writing within three (3) business days, of any suits, investigations, or other proceedings involving the Contractor related to this Contract. The Contractor shall send written notice to the BGADD/AAAIL Contract Designee.

4.01.12-No Grant of Employment or Agency

Nothing in this Contract shall be construed, in any way, as granting to any individual providing services under the Contract any of the claims, privileges, or rights established or recognized under KRS Chapter 18A or KAR Title 101.

At no point shall any individual providing services under this Contract be considered a full-time or part-time employee of BGADD, for any purpose, including but not limited to unemployment, taxes, withholding, health insurance, liability, retirement, Workers' Compensation, vacation, sick or other leave, the Family Medical Leave Act, accrued benefits, evaluations, or any other purpose. At all times, any such individual shall be considered and deemed to be an employee, volunteer, or independent contractor of the Contractor shall be a third-party beneficiary of this Contract or an agent or an employee of the BGADD.

4.01.13-Discrimination Prohibited

During this Contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment or any individual requesting or receiving services from Contractor based on race, religion, color, national origin, sex, disability, age, political beliefs, veteran's status, national origin, or any protected class identified in federal, state or local laws. The Contractor will not retaliate for prior civil rights activity. The Contractor agrees to comply with , as applicable, the Kentucky Civil Rights Act, the Americans with Disabilities Act of 1990 as Amended (ADA), Section 1557 of the Patient Protection and Affordable Care Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, as applicable, and all other applicable federal, state and local regulations relating to prohibiting discrimination.
2. The Contractor agrees to post in conspicuous places, available to program or service applicants or recipients, notices setting forth the provisions of this non-discrimination clause.
3. In all program or service solicitations or advertisements placed by or on behalf the Contractor will state that they will not discriminate against anyone applying for or receiving assistance or services based on race, religion, color, national origin, sex, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity, or any other protected class identified in federal, state, or local laws.
4. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be cancelled, terminated or suspended in whole or in part, and such other sanctions that may be imposed and remedies invoked as provided in or as otherwise provided by law.
5. In compliance with the prohibition against Disability discrimination and in compliance with the implementing guidance for the Americans with Disabilities Act issued by the Department of Justice, the Contractor agrees to provide, free of charge, appropriate accommodations for applicants or recipients with disabilities, including auxiliary aids and services for persons with disabilities who require alternative means of communication.
6. In compliance with the prohibition against National Origin discrimination and, by extension discrimination based on Limited English Proficiency (LEP), the Contractor agrees to provide meaningful language assistance measures free of charge to program or service applicants or recipients with Limited English Proficiency. The language services shall:
 - A. Be consistent with the general guidance document issued by the Department of Justice, which sets forth the compliance standards recipients of federal financial assistance must follow to ensure that LEP persons have meaningful access to the program's services and activities;
 - B. Have a method of identifying LEP individuals; and
 - C. Provide language assistance measures (e.g., oral interpretation and written translation services; training of staff; note to LEP persons of availability of language access assistance; monitoring compliance, etc.).

4.01.14-Staffing

Any individual providing services under this Contract must not be included on any formal registry or listing that is required by law and which relates to abuse, neglect, sexual offenses, or other inappropriate practices or which, in any way, prohibits their employment for or performance of the services required herein, including but not limited to the nurse aid abuse registry and the Child Abuse Prevention and Treatment Act registry. In the event of any such listing or registration, the Contractor shall immediately notify BGADD/AAAIL.

Any individual providing services under this Contract must not be prohibited or debarred from providing services or participating in any state or federal governmental program, including but not limited to the Medicare and Medicaid programs. In the event of any such prohibition or debarment, the Contractor shall immediately notify BGADD/AAAIL.

4.02-Contract Performance

4.02.01-Service Delivery Requirements

All services provided by the Contractor shall be in accordance with all applicable federal and state statutes and regulations.

4.02.02-Total Amount of Funds and Budget Revisions

BGADD shall have the right to recoup the amount of any overpayment, regardless of the reason for the overpayment. Any reconciliation or settlement of fund balances contained in the Summary Line Item Section of this Contract shall be negotiated between BGADD and the Contractor and determined as soon as feasible before the end of the scope of work as set forth under the Contract.

The Contractor shall not request a budget revision within the last sixty (60) days of the contract period.

4.02.03-Subcontractors

Unless otherwise provided for in this contract, the Contractor shall make no subcontract with any other party for furnishing any of the work or services herein contracted without written consent of the BGADD. This provision shall not require the approval of contracts of employment between the Contractor and personnel assigned for services thereunder. The Contractor shall be solely responsible for performance of the entire Contract whether or not subcontractors are used.

4.02.03.01-Responsibility for Subcontractor Contract Requirements

All references to the Contractor shall be construed to encompass both the Contractor and any Subcontractors of the Contractor. The Contractor's contract with any Subcontractor related to this Contract shall specify that all requirements of this Contract are applicable and binding on the Subcontractor. If requested, the Subcontractor must make available to the Contractor and BGADD, copies of personnel records and documentation of employees' compliance with this Contract.

Prime Contractor is responsible for carrying out the Affirmative Action Steps outlined in 2 CFR Part 200.321 when selecting subcontractors.

4.02.03.02-Subcontractor Monitoring Requirements

The Contractor shall monitor Subcontractors for compliance with this Contract and the specific provisions of the Contractor's contract with the Subcontractor.

4.02.04-Indirect Cost

Except as otherwise authorized by this Contract, no indirect costs shall be reimbursed.

4.02.05-Financial Record Retention

The Contractor agrees to maintain all records pertaining to this Contract for a period of not less than three (3) years after all matters pertaining to this Contract (e.g., audit, settlement of audit exceptions, disputes, etc.) are resolved in accordance with applicable federal and/or state laws, regulations, and policies (except as may otherwise be specified in this Contract).

4.02.06-Confidential Information

The Contractor shall comply with the state and federal rules law governing access to and use of information and data provided by BGADD/AAAIL or collected by the Contractor. The Contractor will use such information or data only for those purposes expressly authorized in this Contract. The Contractor will keep all confidential information and data confidential. The Contractor shall have an appropriate agreement or policy with its employees to that effect. Any dissemination of information about projects funded and the scope of work described in the terms and conditions of this Contract, must be fully documented and reviewed by the BGADD's project manager before any representation, electronic or otherwise, of projects, their funding sources, use of data, or data analyses may be posted to a web page or otherwise published.

Any dissemination of information about projects funded and the scope of work on this Contract must be fully documented and reviewed by the BGADD's project manager before any representation of projects, their funding sources, use of data, or data analysis may be posted to a web page or otherwise published.

BGADD, the Cabinet, the Office of the Attorney General, the Office of the Auditor of Public Accounts, or any representative of a government funding agency authorized to review records for audit or investigation purposes shall have unrestricted access on demand to the Contractor's policies and procedures for compliance with these confidentiality requirements, the confidentiality agreements with its personnel, and subcontractor confidentiality assurances.

The foregoing will not apply to:

1. Information that the BGADD/AAAIL has released in writing from being maintained in confidence;
2. Information that at the time of disclosure is in the public domain by having been printed and published and available to the public in libraries or other public places where such data is usually collected; or
3. Information that, after disclosure, becomes part of the public domain as defined above, through no act of the Contractor; or
4. Information required to be disclosed by law.

The Contractor shall have an appropriate agreement with its Subcontractors extending these

confidentiality requirements to all Subcontractors' employees.

4.02.07-HIPAA Confidentiality Compliance

The Contractor agrees to abide by the "HIPAA Privacy Rule," 45 CFR Parts 160 and 164 established under the Health Insurance Portability and Accountability Act, Public Law 104-191 (42 USC 1320d).

4.02.08-Response/Compliance with Audit Findings

The Contractor shall comply with and shall ensure any Subcontractor complies with any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle relating to this contract. The Contractor will provide BGADD, for BGADDs' approval, a Corrective Action Plan that addresses deficiencies identified in any audit(s), review(s), or inspection(s) within thirty (30) calendar days of the close of the audit(s), review(s), or inspection(s). The Contractor shall bear the expense of compliance with any noncompliance finding that impacts or is related to the Contractor's work under this Contract. Noncompliance may also result in penalties.

4.02.09-Research Project Approval and Institutional Review Board Requirements

If applicable, any proposed research project under under this Contract shall follow the procedures and protocols in 920 KAR 1:060 which provides for the Cabinet's review of research projects supported or funded in whole or in part through CHFS. If the proposed research project involves human subjects, it shall comply with federal regulations 45 CFR 46 and the requirements of the Cabinet's Institutional Review Board for the Protection of Human Subjects (IRB). The project manager assigned by CHFS will provide all documentation and protocols for review and approval by the CHFS IRB. No research may begin until the IRB approves the project.

4.02.10-Performance-Based Penalties

Upon a determination of failure to perform services outlined in Section 2-Scope of Services, the BGADD may issue penalties up to five percent (5%) of the total amount of contract for each instance of non-performance.

If the BGADD elects not to exercise any of the penalty clauses herein in a particular instance, this decision shall not be construed as a waiver of the BGADD's right to pursue the future assessment of any performance standard requirement and associated penalties. In addition, a Corrective Action Plan may be issued as outlined in item 1.B. below.

The BGADD/AAAIL will work with the Contractor to resolve performance issues at all times.

1. Requirement of Corrective Action:

A. Letter of Concern

Should the BGADD determine that the Contractor or any Subcontractor is in violation of any requirement of this Contract, the BGADD shall notify the Contractor of the deficiency through a "Letter of Concern." The Contractor shall contact the BGAAAIL's representative designated by the BGADD within two (2) business days of receipt of the Letter of Concern and shall indicate how such concern is unfounded or how it will be addressed. If the Contractor fails to timely contact the designated representative regarding a Letter of Concern, the BGADD shall proceed to the additional enforcement contained in this Contract.

B. Corrective Action Plan

Should the BGADD determine that the Contractor or any Subcontractor is not in substantial compliance with any material provision of this Contract, they shall issue a written deficiency notice and require a corrective action plan be filed by the Contractor within ten (10) business days following the date of the notice.

A corrective action plan shall delineate the time and manner in which each deficiency is to be corrected. The plan shall be subject to approval by BGADD/AAAIL or the BGADD Executive Board, which may accept the plan as submitted, may accept the plan with specified modifications, or may reject the plan within ten (10) business days of receipt. BGADD may reduce the time allowed for corrective action depending upon the nature of the deficiency.

C. Failure to Respond to Letter of Concern or Corrective Action Plan Notice

Failure of the Contractor to respond to a Letter of Concern within two (2) business days of receipt of the Letter of Concern may result in the delay or suspension of pay until all conditions of the contract are met.

D. Request for Extension

Upon request, BGADD may extend the time allowed for both a response to the Letter of Concern and a Corrective Action Plan depending upon the nature of the deficiency. The Contractor shall request an extension of time in writing from the representative designated in the Letter of Concern or the written deficiency notice. The written request shall contain a justification and proposed extension period.

2. Failure to Correct any identified deficiency may result in cancellation of this contract.

3. Upon timely resolution of all performance-based issues outlined in the Corrective Action Plan, and if BGADD chose to withhold up to 5% of total amount of the contract, Contractor shall receive reimbursement of those funds.

4.02.11-Performance and Evaluation

BGADD may complete a Performance Evaluation (PE) once a year to document contract performance. PE documents will be maintained by BGADD. Performance documented by PE may be considered when making future awards. To obtain a copy of the PE documents completed for this Contract, contact the Contract Specialist identified on page 1.

4.02.12-Provisions for Termination

The Contract shall be subject to the termination provisions set forth in 200 KAR 5:312. This Contract may be terminated:

- If the Contractor is in default of its contractual obligations, after the BGADD has provided the Second Party written notice of the identified deficiencies and a specified time to cure; For convenience of the BGADD by providing the Contractor thirty (30) calendar days written notice of termination;
- Immediately for cause;
- Upon less than thirty (30) calendar days notice to the Contractor, upon written determination of the BGADD, or his designee, for convenience of the Bluegrass Service Area.

All termination notices shall be sent certified mail, return receipt requested and in accordance with 200 KAR 5:312.

4.02.13-Business Continuity, Disaster Recovery, and Information Security Requirements

The Contractor shall maintain and implement a Business Continuity Plan, Disaster Recovery Plan, and Information Security Plan, which shall detail the steps The Contractor will take in the event of an outage or failure of either The Contractor's or BGADD's data or communication or technical support system. Such plans shall enable The Contractor to continue to meet all contractual requirements of BGADD. The Contractor shall provide a copy of its plans upon request. All costs associated with activating and sustaining execution all plans shall be borne by the Contractor.

4.02.14-Protection of Personal Information Security and Breach Investigation Procedures and Practices Act

When applicable, contractors that receive Personal Information, as defined by KRS 61.931, shall secure and protect the Personal Information by complying with all applicable requirements of the Personal Information Security and Breach Requirements contained in KRS 61.931-KRS 61.934. In accordance with KRS 61.932(2)(a), the Contractor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed and that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology:

See:

<http://technology.ky.gov/ociso/Pages/InformationSecurityPolicies.StandardandProcedures.aspx>

The Contractor shall comply with all applicable notification provisions in KRS 61.932 and KRS 61.933. The Contractor agrees to undertake a prompt and reasonable investigation of any security breach, as defined in KRS 61.931, as required by KRS 61.933. Upon conclusion of an investigation of a security breach of Personal Information, the Contractor agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach. The Contractor agrees that the BGADD may withhold payment(s) owed to the Contractor for any violation of the requirements contained in KRS 61.931-KRS 61.934. The Contractor agrees to cooperate with the BGADD in complying with any response, mitigation, correction, investigation, and notification requirements of the Act.4.03-Breach and Contract Termination.

4.03-Breach and Contract Termination

4.03.01-Remedies for Breach

In the event of breach of contract by the Contractor, BGADD may pursue any remedy available to it under this Contract, KRS Chapter 45A, or by law. The remedies may be invoked without regard to the existence of any other available remedy and may include the enforcement of any holdback provision or payment of any specified liquidated damages.

4.03.02-Transition/Turnover

In the event of non-renewal or termination, upon receipt of required notice of non-renewal or termination, the Contractor shall provide any turnover assistance reasonably necessary to enable BGADD or its designee to effectively close out the Contract and move the work to another Contractor or to perform the work by itself.

The Contractor shall:

1. Provide detailed transition documents at no additional cost to BGADD.
2. Be responsible for the orderly transition of work and the accuracy of data in coordination with the new Contractor.
3. Within ten (10) calendar days after written notification by BGADD of the initiation of transition, provide a detailed Transition Document. Upon receipt of the detailed Transition Document by BGDD, BGADD shall review the document and within fourteen (14) calendar days provide written instructions to The Contractor as to the packaging, documentation, delivery location, and delivery date of all records, as needed to provide orderly transition. If BGADD determines upon review that the Transition Document is missing necessary information, BGADD shall provide The Contractor written instructions as to the information that is still needed, and The Contractor shall amend the Transition Document to include the necessary information.
4. Deliver a complete accounting and report as of the date of termination about the status of services. This report shall be provided to BGADD within twenty-one (21) days of the effective date of termination.
5. Transfer all documents and records pertaining to this Contract in its possession within twenty-one (21) days of the effective date of termination. All documents shall be in a BGADD-approved format.
6. Provide reasonable and appropriate assistance to BGADD and its designee(s) regarding the contents of such documents and records, and shall provide reasonable and appropriate reference materials, including data models and file documentation. This assistance shall be provided to the BGADD within twenty (20) days of the effective date of termination.
7. Pay any and all additional costs incurred by BGADD that are the result of The Contractor's failure to provide the requested records, documents, data or materials within the time frames agreed to in the Transition Document.

4.04-Miscellaneous Provisions

4.04.01-Advertising Award Prohibition

The Contractor shall not refer to the Award of Contract in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the Bluegrass ADD/AAAI.

4.04.02-Bankruptcy

In the event the Contractor becomes a debtor in a case pending under the Federal Bankruptcy Code, the BGADD's right to terminate this Contract may be subject to the rights of a trustee or a debtor-in-possession in bankruptcy to assume or assign this Contract. The trustee shall not have the right to assume or assign this Contract unless the trustee:

1. Promptly cures all defaults under this Contract;
2. Promptly compensates the BGADD for the monetary damages incurred as a result of such default; and
3. Provides adequate assurance of future performance, as determined by the BGADD.

4.04.03-Code of Ethics

The Contractor and all personnel who may provide services under this Contract or any subcontract with the Contractor shall abide by any applicable code of ethics or conduct. Failure of the Contractor to abide by the applicable code of ethics may result in the immediate termination of the contract.

4.04.04-Notices and Pamphlets

All notices, employment, advertisements, information pamphlets, research reports, and similar public notices prepared and released by the Contractor, pursuant to this Contract, shall include a statement identifying the appropriate source of funds, for the project or service, including but not limited to, identifying whether the funding is in whole or in part from federal, CHFS, or other state funds.

4.04.05-Scientific Misconduct

If applicable the Contractor shall set out a procedure for the inquiry, investigation, appeal, and disposition of complaints alleging misconduct in activities involving any and all research projects funded, in whole or in part, with federal funds included in this Contract, and as authorized under the Public Health Services research grants. Such policies and procedures shall be in accordance with the provisions of 42 CFR Part 93, and shall be made available, upon request, to BGADD and CHFS. The Contractor shall immediately report to BGADD of any activity reported to The Contractor under this section.

4.04.06-Intellectual Property

Any formulae, methodology, or other reports and compilations of data provided by the BGADD to the Contractor to meet the terms and conditions of this Contract shall be the exclusive property of BGADD. Any other use of these materials must be reviewed and approved in advance by BGADD. Any intellectual property owned by the Contractor prior to this Contract shall remain the exclusive property of the Contractor.

Any formulae, methodology, other reports, or compilations of data prepared or produced by the Contractor pursuant to this Contract shall, upon request, be made available for use by BGADD without charge. The BGADD reserves a royalty-free, non-exclusive, and irrevocable right to reproduce, publish, or otherwise use the formulae, methodology, or other reports and compilations of data prepared or produced under this Contract.

4.04.07-Business Associate Agreement

A Business Associate Agreement has been determined to be unnecessary for this Agreement.

SECTION 5-FEDERAL REQUIREMENTS

If federal funds are utilized, the Contractor is responsible for complying with all provisions of 2 CFR Part 200, Appendix II.

5.00-Certain Provisions Contained Within 2 CFR, Part 200, Appendix II

5.00.01-Clean Air Act and Federal Water Pollution Control Act

The Contractor and Subcontractors shall agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the HHS and the appropriate Regional Office of the Environmental Protection Agency.

5.00.02-Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion, Lower Tier Covered Transactions

In accordance with Federal Acquisition Regulation 52.209-5 and 2 CFR 180.300, 2 CFR 200.318, 2 CFR 200.303, and FAP 111-59-00, the Contractor certifies by signing the Contract, that to the best of its knowledge and belief, the Contractor and/or its Principals is (are) not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency. If debarred during the life of the contract, the Contractor shall notify the BGADD buyer of record within seventy-two (72) hours of the federal debarment. For this certification, "Principals," means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).

5.00.03-Certification of Lobbying Activities

The Contractor shall disclose any lobbying activities in accordance with Section 1352, Title 31, U.S. Code. The Contractor certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

5.00.04-Equipment

For reimbursement type contracts, the Contractor shall not purchase equipment or property with contract funds, unless and except as specifically authorized under the scope of work and specifications of this Contract.

Equipment and property reimbursed by BGADD for the purposes of fulfilling the requirements of this Contract, requires prior approval by the BGADD and CHFS before the federal government will allow the costs in accordance with 2 CFR, Part 200.

5.00.05-Telecommunications and Video Surveillance Services or Equipment

In accordance with 2 CFR: 200.216, Contractos and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or system that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - I. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities)
 - II. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - III. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigaion, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

5.00.06-Domestic Preferences for Procurements

In accordance with 2 CFR: 200.322(a):

- a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- b) For purposes of this section:
 - 1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - 2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregate such as concrete; glass, including optical fiber; and lumber.

5.00.07-Procurement of Recovered Materials

In accordance with 2 CFR: 200.323:

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

5.01-Subrecipient Provisions

This Contract has been identified as a subrecipient agreement. The Contractor (subrecipient) and all lower tier subrecipients shall comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), and the federal funding agency implementing regulations.

Federal agency implementing regulations for the Uniform Guidance are as follows:

2 CFR Part 300, Department of Health and Human Services

2 CFR Part 400, Department of Agriculture

2 CFR Part 802, Department of Veterans Affairs

2 CFR Part 910, Department of Energy

2 CFR Part 1500, Environmental Protection Agency

2 CFR Part 2205, Corporation for National and Community Service

2 CFR Part 2400, Department of Housing and Urban Development

2 CFR Part 2800, Department of Justice

2 CFR Part 2900, Department of Labor

2 CFR Part 3474, Department of Education

Unless otherwise indicated by this Agreement, this sub-award does not include Research and Development.

The Contractor (sub-recipient) and all lower tier sub-recipients shall adhere to all the requirements of the federally approved grant application, Notice(s) of Grant Award and Terms and Conditions. The Contractor shall be fully liable for federal refund of any deficiencies identified in audit, state or federal review.

5.01.01-Federal Funding Accountability and Transparency Act Compliance

In accordance with 2 CFR, Part 170, the Contractor shall comply with the Federal Funding Accountability and Transparency Act (FFATA or Transparency Act), including registration of a unique entity identifier number if the amount of Federal funding awarded to the Contractor is \$25,000.00 or more.

The Contractor must disclose to BGADD the names of the top five executives and total compensation to each, if:

1. More than 80% of the Contractor's annual gross revenues originate from federal funds (received directly or indirectly), and those revenues are greater than \$25,000,000.00 annually; and
2. Compensation information is not already available to the public (such as, through reporting under the Securities Exchange Act of 1934. See 2 CFR, Part 170 for additional details regarding executive compensation requirements).

5.01.02-Audit Requirements

The Contractor (sub-recipient) shall have an audit conducted in accordance with Generally Accepted Government Auditing Standards and 2 CFR, Part 200, Uniform Guidance, Subpart F – Audit Requirements. The audit report's accompanying financial statements shall be issued in accordance with Generally Accepted Accounting Principles (GAAP) and reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited.

The audit shall cover each fiscal year period of the contract duration, and a copy of the Contractor's audit report(s), federal schedule of expenditures, supplemental information by cost center and/or program and audit findings with corrective action plan shall be submitted to the Contract Specialist within nine (9) months after the fiscal year end.

Should the audit report refer to a separate management letter of findings, the Contractor shall include a copy of the management letter with the audit report and comments and/or a corrective action plan. All material findings shall be reported in the audit section of audit findings and shall include the management's response and/or corrective action as required by 2 CFR, Part 200, Subpart F.

The audit report shall include a schedule of expenditures of federal awards and all federal award identification information as stipulated by 2 CFR, Part 200, Subpart F requirements.

The audit report shall include supplemental information of all federal grant and/or award expenditures by cost centers and/or programs identifying all administrative and indirect cost for each state fiscal year. The Contractor shall include in the supplemental information a list of their sub-recipients of federal monies received through this Agreement and provide their sub-recipient name, and unique entity identifier, Catalog of Federal Domestic Assistance (CFDA) number and description, sub-recipient's expenditures and related contract number in addition to all other information as required in 2 CFR, Part 200.

Upon request, a copy of the engagement letter shall be submitted to the agency contact identified in the Contract Commodity Line 1 Extended Description no later than three (3) months prior to The Contractor's fiscal year end, unless BGADD grants an extension in writing. If the Auditor of Public Accounts (APA) is to perform the audit, the name of the APA auditor and the anticipated start date shall be submitted to the agency contact identified in the Contract Commodity Line 1 Extended Description no later than three (3) months prior to fiscal year end, unless that office or its designee grants an extension in writing.

5.01.03-Response/Compliance with Audit Findings

The Contractor shall comply with and shall ensure any sub-recipient's or Subcontractor's compliance with any finding of noncompliance with any law, regulation, audit, inspection, or generally accepted accounting principle relating to this contract. The Contractor will provide BGADD, for BGADD's approval, a Corrective Action Plan that addresses deficiencies identified in any audit(s), review(s), or inspections(s) within thirty (30) calendar days of the close of the audit(s), review(s) or inspection(s). The Contractor shall bear the expense of compliance with any noncompliance finding that impacts or is related to the Contractor's work under this contract.

5.01.04-Reporting Requirements

1. Single Audit Report: When applicable, the Contractor shall ensure audit reports are made available through the Federal Audit Clearinghouse, in accordance with 2 CFR 200.512(b), and shall provide notice of audit completion and availability within ten (10) calendar days of submission to the Federal Audit Clearinghouse, to the individual identified on page 1 of the Contract. If not required to submit audit reports through the Federal Audit Clearinghouse, the Contractor shall submit three (3) written copies of the audit report or an electronic copy to the individual identified on page 1 of the Contract no later than six (6) months following the end of the fiscal year audited, unless an extension is approved in writing by BGADD.
2. All reports and documentation: Electronic submission of required documents may be acceptable at the discretion of the Agency Contact identified on page 1 of the Contract.

5.01.05-Cost Share or Matching

If indicated elsewhere in this Agreement, the Contractor (Sub-recipient) shall provide the required match as outlined in the approved grant application. The Contractor shall be fully liable for refund of any match deficiencies identified in audit. The cost sharing or matching contributions shall meet all of the following criteria:

- Are verifiable from the Contractor's records;
- Are not included as match contributions for any other award;
- Are necessary and reasonable for accomplishment of project or program objectives;
- Are allowable under 2 CFR Part 200, Subpart E – Cost Principles;
- Are not paid by the federal government under another federal award, except where the federal statute authorizing a program specifically provides that federal funds made available for such program can be applied to matching or cost sharing requirements of other federal programs and written authorization has been received from the other federal program; and
- Conform to other provisions of 2 CFR, Part 200, and the federal funding agency implementing regulation for 2 CFR, Part 200, as applicable.

5.01.06-Certification Regarding Drug-Free Workplace

The Contractor certifies that it will comply with the drug-free workplace requirements in 2 CFR Part 182.

5.01.07-Additional Information Required Under 2 CFR §200.331(a)(1)

Upon request, the BGADD will make available any additional information required under 2 CFR §200.331(a)(1), Federal Award Identification.