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of original*

Contract: AS-2018-2019  
Date: July 1, 2018

## **PROGRAM ADMINISTRATION CONTRACT**

THIS AGREEMENT, made and entered as of the 1<sup>st</sup> day of July, 2018, 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 on Aging pursuant to the Older Americans Act of 1965, as amended.

## SECTION I – ADMINISTRATIVE OVERVIEW

The Bluegrass Area Development District/Bluegrass Area Agency on Aging and Independent Living (BGAAIL), in accordance with the Older Americans Act of 1965, as amended and 910 KAR Chapter 1, is issuing this Contract on behalf of the Bluegrass Area Development District/Bluegrass Area Agency on Aging and Independent Living. The BGADD/BGAAAIL is the only office authorized to change, modify, amend, alter, or clarify the specifications, terms and conditions of this Contract regarding the performance of the following functions briefly described as:

- (1) Administration of the Title III and Title VII Grant from the Cabinet for Health and Family Services and the Department for Aging and Independent Living through a grant from the United States Department of Health and Human Services (DHHS), Administration for Community Living (ACL) pursuant to the Older Americans Act of 1965, as amended. The following programs follow under these grants: Title III Supportive Services, Congregate Meals, Home Delivered meals, Title VII-Elder Abuse and Ombudsman,
- (2) 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; **(Doesn't apply to all providers)**
- (3) Administration of the National Family Caregiver Support Program (NFCSP), in accordance with the Older Americans Act of 1965, as amended. Provide respite services in accordance with Title III-E of the OAA and DAIL-CSS 5.1. **(Doesn't apply to all providers)**
- (4) Administration of a Homecare program, pursuant to KRS 205.455-465 and 910 KAR 1:180, funded by state general funds; **(Doesn't apply to all providers)**
- (5) Administration of a grant from the Kentucky Cabinet for Health and Family Services and the Department for Aging and Independent Living through the DHHS, for the provision of a State Health Insurance Assistance Program (SHIP) providing health information, counseling and assistance to eligible persons. **(Doesn't apply to all providers)**

The Contract Specialist named below is the point of contact for communications concerning contract issues:

Rebecca Redden  
859-269-8021 ext.265  
E-mail: [rredden@bgadd.org](mailto:rredden@bgadd.org)

**Master Contract**  
**Buyer Name: Bluegrass ADD/Bluegrass AAAIL**  
**July 1, 2018 –June 30, 2019**

For the purpose of this contract, the following terms may be used interchangeably;

- Proposer, Offeror, Contractor, Provider, Vendor, or Second Party
- Contract Specialist, Buyer, Purchaser, or 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 of Kentucky or State
- Department for Aging and Independent Living, or DAAIL
- 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

### **Organization**

This contract is organized in the following manner:

Section I-Administrative Overview

Section II-Required Services-Scope of Work

Section III-Individual Program Requirements-Scope of Work

Section IV-The BGADD/BGAAAIL Responsibilities

Section V-Financial Contract Requirements

Section VI-Terms and Conditions of the Contract

### **SECTION II – REQUIRED SERVICES – SCOPE OF WORK**

The Contractor shall administer all programs and/or provide all the services, mandated by a particular funding source, as detailed below, within the Bluegrass Area Development District/Bluegrass Area Agency on Aging and Independent Living (BGADD/BGAAAIL).

- (1) Comply with the **General Administrative Requirements**, which include:
  - a. The Contractor, agrees that they are willing, available and qualified to perform the scope of work as detailed in this agreement and as set forth in the scope as detailed in the approved Request for Proposal and attachments to this agreement. The Attachment(s) as referenced in this Agreement and the approved Request for Proposal are incorporated into this contract and are binding on all parties.
  - b. Ensure compliance with all federal and state licensure requirements and standards for all contracted services and advise the BGADD/BGAAAIL, within 3 working days, when such compliance is not met.
  - c. Ensure that all services under this Subcontract are provided and maintained on a continuing basis throughout the fiscal year, subject to availability of funds provided by the BGADD/BGAAAIL.

- d. Assist the BGADD/BGAAAIL, upon request, in training involving services and regulated Bluegrass ADD skills and resources under this Subcontract.
- e. Ensure compliance with 910 KAR 1:140 and KRS Chapter 13B Hearing Procedures Relating to Bluegrass ADD on Aging Contractor Selection Actions.
- f. Ensure that, upon termination of agreement, copies of all appropriate records of all active clients and/or participant data shall be provided to the new service provider in accordance of policy.
- g. Ensure the retention of client-specific clinical records in a secured location for five (5) years after the last date of service and their subsequent destruction by shredding or burning.
- h. Comply with all appropriate Federal and State Equal Opportunity Laws.
- i. Comply with all applicable Federal and State Laws and Regulations for services provided under this Subcontract.
- j. Provide information, upon request of the BGADD/BGAAAIL, concerning all activities performed pursuant to this Subcontract. This shall include, but shall not be limited to, periodic data reporting and data system input, concerning program activities, or such data that is required by applicable state or federal law.
- k. Conduct and submit to the BGAAAIL client satisfaction survey results for all programs/services administered by the Second Party on or before May 1, 2019.
- l. Maintain written personnel policies and procedures including salary, conditions of employment, and job descriptions relative to all personnel, including those whose services are for other than on a full-time basis and/or secured by process other than direct employment.
- m. Ensure that program data is submitted electronically to the BGAAAIL, or another agency designated by the BGAAAIL, on the schedule and in the format prescribed by this contract. All Program/service data required to be entered into the State Data System or other data system required by a specific program, must be entered by the 5th of the month following the month of service.
- n. Adhere to the approved budget as set forth in the fiscal summary and Approved Request for Proposal, except that the Contractor may request, at the end of the quarter, an amendment to adjust the service delivery objectives and/or the budget. The Contractor shall request written approval for any variation which will exceed ten percent (10%) in any cost categories (Contracts, Supplies, Other) of any program component budget total (Administration, etc.) The BGADD/BGAAAIL, at its option, will either: (1) prepare a contract amendment if the change is substantial, or (2) give a written letter of approval if the change is minor. No budget revision shall be requested by Contractor after March 1st. At the close of the fiscal year, expenditures in any cost categories shall not exceed

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- the amount budgeted by ten percent (10%) or more of any program component budget total. A written explanation must be submitted if the budget is exceeded or under-spent by more than 10%. Budgetary shifts between federal fund programs shall follow the ACL guidance.
- o. Submit program reports as required, by the 10<sup>th</sup> of the month following the month on forms prescribed by the BGADD/BGAAAIL. (See appropriate Attachments for each program)
  - p. Provide or arrange for appropriate insurance coverage to protect volunteers from personal liabilities.
  - q. Ensure volunteers working with the programs are trained and that those working as required staff meet all qualifications. Maintain volunteer records including training, total number of volunteers, and the training hours provided.
  - r. Report all incidences or suspected incidence of abuse, neglect and exploitation to the appropriate agencies within 24 hours of learning of such incidences. Long Term Care Ombudsmen shall be exempt from mandatory reporting of abuse, neglect, exploitation, or spouse abuse to the Department of Community Based Services, Division of Protection and Permanency. However, such reports may be made when the LTCO adheres to the disclosure requirements of section 712 (d) of The Older Americans Act, the procedures set forth in 45 CFR part 1324.11(e)(3) and outlined in 910 KAR 1:120 Section 11 (1-6) to obtain the required consent to report.
  - s. Maintain written policies and procedures to ensure a plan for the continuity of services, in the event that the Subcontractor is terminated. It is the Contractor's responsibility to ensure service continuity and for the protection of the health, safety and welfare of the clients receiving services under this contract. The Contractor must ensure the continued operation of services affected by the termination and the Contractor shall perform the responsibilities of the terminated provider. It is the Contractor's responsibility to secure all program/client records, facilities under program control and equipment. Should a termination of the subcontract be necessary, the provider must contact BGADD/AAAIL immediately and an emergency plan of action must be submitted and approved within 10 days of action.
  - t. Permit BGAAAIL staff to monitor and evaluate the performance of all programs and activities initiated under the Older Americans Act for quality and effectiveness (45 CFR 1321.11) and monitor all other programs for which BGAAAIL has administrative responsibility.
  - u. Ensure public awareness activities supported with state/federal funds and allocated to provider through this contract contain the following statement: "This information is made possible by the state and/or federal funding provided by the Department for Aging and Independent Living." Public awareness activities include printed materials such as posters, brochures, or flyers, community/public events such as health fairs, school activities, and media events via television, radio, internet, e-mail or newspaper.

- v. Ensure that client eligibility has been determined, according to each program regulations, prior to the provision of services. Also, assurance that required client information including eligibility, assessments, and journal entries are entered in the State Data System (SAMS).
  - w. 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).
  - x. Ensure services and information shall be offered to those clients that express a desire to pursue private pay designation.
  - y. Assist with voter registration per KRS 116.048(1) (d) and as described on the DAIL –VR-1.1 and SOP.
  - z. BGADD/AAAIL reserves the right to withhold payments under this contract and provide services directly or make arrangements for another provider to provide services if BGADD/AAAIL determines that the Contractor's performance under the contract has endangered the health, safety, or welfare of its clients or if BGADD/AAAIL determines that the Contractor has failed to comply with Federal or State laws, including regulations or policies.
  - aa. Back up documentation will be required for any and all expenditures and revenue claimed on all invoices including but not limited to detailed payroll reports, invoices, financial system generated reports, and any additional requested documentation as instructed by BGADD/AAAIL Financial Specialist. All in-kind contributions shall include, but may not be limited to, documentation of size and value of space donated; total volunteers time spent and total value of time; including hours and duties performed. In-kind documentation shall be submitted with monthly invoices.
  - bb. Each Subcontracted Provider shall abide by the State regulations located at 200 KAR 2:006 including but not limited to mileage rate, per diem rates, and subsistence for all travel.
- (2) Meet the following **Administrative Core Performance Measures**:
- a. Complete and submit the Request for Proposal, or service plans required, by the due date.
  - b. Implement or complete 90% of Statewide Performance Measures required in the Bluegrass Regional Plan which is incorporated in this contract.
  - c. Ensure 100% programs have conducted client satisfaction surveys.
  - d. Ensure a 40% return rate of completed client satisfaction surveys (with or without assistance) and that results are submitted to BGAAIL by May 1, 2019.
  - e. Demonstrate action toward expansion of local funding.

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- f. Ensure that representatives are appointed to the BGADD/BGAAAIL Advisory Council and that they attend 75 % of meetings.
  - g. Ensure that 100% of staff has received Bluegrass ADD and program orientation within three months of hire date **or** as required by program.
  - h. Ensure that 100% of staff meets any special training requirements of specific programs.
  - i. Ensure that 100% of program staff meets qualifications according to program requirements.
  - j. Ensure that 100% of staff training, according to program requirements, have been completed and documented within three months of hire date.
  - k. Ensure 100% of the data required on budgets, invoices and reports are documented in the State Data System (SAMS), when required.
  - l. Ensure at minimum two (2) approved evidenced based programs will be conducted in each Senior Center annually.
  - m. Expend 94% of federal program funds by the end of the fiscal year.
  - n. Expend 99% of state program funds by the end of the fiscal year.
- (3) Comply with the **Financial Management System Requirements**, which includes establishing and/or maintaining a financial management system that provides:
- a. Accurate, current, and complete disclosure of the financial results of the functions and services performed under this Contract, in accordance with reporting requirements set forth in the guidelines for allowable costs found in applicable documents: Office of Management and Budget (OMB) Federal Register Volume 78, No.248 Rules and Regulations 2 CFR Part 200; and the federal agency's common rule.
  - b. Provide complete records that identify the source and approved Request for Proposal of funds for activities, functions, and services performed pursuant to this Contract. These records shall contain information pertaining to federal and/or state funds received, obligations, unobligated balances (if applicable), assets, liabilities, expenditures, and income.
  - c. Maintain effective control over and accountability for all funds, property, and other assets. The Contractor shall safeguard all such assets and shall assure that they are used solely for authorized purposes in the provision of functions/services under this Contract. An inventory must be maintained and a complete physical inventory of all equipment and/or furniture purchased under programs outlined in this contract must be conducted annually.
  - d. Maintain accounting records that are supported by source documentation.

- e. Execute a Fidelity Bond properly to ensure that the employee(s) who are authorized to receive or deposit funds, issue financial documents, checks, or other instruments of payment for program costs shall be bonded against loss of sufficient amounts of funds. The bond shall be sufficient to cover maximum sums handled quarterly under this Contract and a copy of the Fidelity Bond shall be provided upon the request of the Department and/or BGADD.
- f. Ensure that no other funds or assets of the Contractor shall be co-mingled with the funds provided for these programs to be administered under this Contract to any other program account, and that these funds shall not be utilized for any purposes except those specifically identified herein.
- g. Monitor fiscal and/or program exceptions established by evaluation, monitoring under 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 the BGADD/BGAAAIL.
- h. Respond to BGAAAIL monitoring reports by submission of and compliance with corrective action plan based on monitoring results.
- i. Adhere to the approved budget as agreed to by both parties. The Contractor shall submit a budget revision to the Bluegrass ADD, 699 Perimeter Drive, Lexington, KY 40517, for any variation of 10% or larger in any cost item in the budget on file with the BGADD. The Bluegrass ADD at its option will either prepare a Contract amendment if the change is substantial or give a written letter of approval if the change is minor. The Contractor shall not request a budget revision within the last 90 days of the Contract period.
- j. All funds received from BGADD/AAAIL shall be expended solely for the use of implementing BGADD/AAAIL programs as budgeted and approved by BGADD/AAAIL. Any BGAADD/AAAIL funds utilized for non-BGADD/AAAIL programs are subject to recoupment.

### **SECTION III – INDIVIDUAL PROGRAM REQUIREMENTS – SCOPE OF WORK**

For the specific programs and/or services described below, the Contractor shall provide the following services:

#### **ACL Programs**

In relation to this Subcontract, the Contractor agrees to perform the following functions described for Title III Supportive Services, Title III Congregate Meals, Title III Home Delivered Meals, Title VII Elder Abuse and Title VII Ombudsman Programs, herein:



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- (1) Perform the functions described with particularity in the BGAAAIL's approved REGIONAL PLAN and the Contractor's APPROVED REQUEST FOR PROPOSAL which is hereby made a part of, as if fully incorporated herein, and is kept on file at the Bluegrass ADD, Lexington, Kentucky.
- (2) Complete the objectives for this Subcontract as set forth on the district-wide service delivery page of the APPROVED REQUEST FOR PROPOSAL and the ATTACHMENTS.
- (3) Provide assurances that the provision of service is based on:
  - a. The uniform service definitions and documented eligibility as required by the Older Americans Act for AOA programs.
  - b. Preference given to older individuals with the greatest economic or social need with particular attention to low income minority individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.
  - c. Policies and procedures provided by the BGADD/BGAAAIL or any revisions thereto during the Subcontract period.
  - d. All applicable provisions of Title III Older Americans Act of 1965, as amended, and the regulations promulgated there under.
- (4) Assist participants in taking advantage of benefits under other programs.
- (5) Employ adequate qualified staff based on the number of program participants and the type of services provided.
- (6) Comply with all applicable provisions of Title III and Title VII Older Americans Act of 1965, as amended, and the regulations promulgated there under.
- (7) Comply with all requirements of **Administration for Community Living**.
- (8) Comply with all Requirements of **Nutrition Program for Older Persons**
- (9) Provide program participants an opportunity to voluntarily contribute to the cost of services by:
  - Using contributions to expand program availability for the services where money is donated
  - Ensuring that an eligible person is not denied service due to inability to contribute
  - Protecting the privacy of each older person with respect to contributions
- (10) Processing information, referrals, assistance, intake prescreening with all required information entered into the State Data System (SAMS).
- (11) Provide participants with written information to contact adult protective services report adult abuse, neglect, or exploitation on the first visit and every six (6) months thereafter.

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- (12) Provide participant's caregivers with written instructions to alleviate caregiver stress upon first visit and every six (6) months thereafter.
- (13) Provide participants with written information on how to avoid financial exploitation upon first visit and every six (6) months thereafter.
- (14) Follow the DAIL Taxonomy (version 2017) Definitions, Authority, and Requirements for each service.

**Nutrition Service Incentive Program (NSIP) (does not apply to all subcontracts)**

In relation to this Subcontract, the Contractor agrees to perform the following functions described with particularity for NSIP which is subscribed by the parties for identification and made a part hereof as if fully incorporated herein:

- (1) 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, 2018-September 30, 2019.
- (2) Disburse NSIP monies based on total number of eligible meals served. Expend NSIP monies within same grant year from the time payment is received.
- (3) Submit monthly food receipts of NSIP eligible meals by the 8th of the following month.

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 for reimbursement.

Meet NSIP Core Performance Measure of ensuring that 100% of funds are expended within Federal grant year of allocation.

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.

Funds shall be used to purchase domestically produced or processed foods.

Meals shall be purchased with NSIP funds only if the following is met:

The meal provider must provide a letter, on company letterhead, certifying the percentage of the meal attributed to domestically produced or processed foods. Reimbursement of NSIP shall be based on the percentage stated in the letter.

If a letter is used to certify the food cost of the meal, the meal provider shall send revisions of the letter once the percentage changes. Backup documentation shall also be provided when requested by the AAAIL and DAIL.

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Provide meals to eligible individuals through a nutrition service provider under jurisdiction, control, management, and audit authority of BGADD/AAAIL.

Provide assurances that the provision of service is based on:

\*The uniform service definitions established by the Administration for Community Living as set forth in the OAA and 910 KAR 1:190.

\*A preference given to older individuals who have the greatest economic or social need with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.

\*BGADD/AAAIL policy.

\*Comply with all applicable provisions of Title III of the Older Americans Act of 1965, as amended, and the regulations promulgated there under.

Solicit bids for any subcontract 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.

**Nutrition Program for Older Persons in accordance with 910 KAR 1:190 and OAA Title III-C-1 Congregate Meals, and OAA Title III-C-2 Home Delivered Meals as described in the Older Americans Act of 1965, as amended.**

- (1) Follow the requirements of intake, prescreening for all clients and assessment as required for specific services.
- (2) Provide assurances that the provision of service is based on:
  - \*The Uniform service definitions established by the Administration for Community Living as set forth in the Older Americans Act and 910 KAR 1:190
  - \*A preference given to older individuals who have the greatest economic or social need with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas
  - \*Follow BGAAAAIL policy/procedures as well as DAIL Standard Operating Procedures
- (3) Provide one (1) hot or nontraditional congregated meal per day, five (5) or more days per week within each county. An exception request is required to serve congregated meals less than five (5) days per week within a rural area. Exception currently approved for Lincoln, Harrison, and Nicholas Counties.
- (4) Provide one (1) hot or nontraditional Home Delivered meal per day, five (5) or more days per week, within each county. Home Delivered Meals can only be served to a participant who is unable to attend a congregated site because of illness or an incapacitating disability and there is no one in the home able to prepare a nutritious meal on a regular basis. The reason a participant is unable to attend and no one able to prepare a meal must be documented. Documentation must be stored in a secure location at the provider site.
- (5) Nutrition screening assessment shall be completed when each participant is

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added to the program and every twelve months thereafter. The score assigned to each question and the total score shall be recorded in the state data system and at the site which the screening was completed. The following items shall be recorded at the site where the screening was completed:

- a. The need for further interventions as determined by a score of greater than six (6)
  - b. Interventions provided including referral to a Registered Dietitian or Physician must be provided based on score
  - c. Follow up on previous interventions at the next screening must be recorded
- (6) Nutrition Education is a required component of the meals program and must be provided at least once per month to all participants of the nutrition program for the elderly. In providing the monthly education, the Nutrition Service Provider shall ensure an annual nutrition education be approved and delivered by the registered dietician or certified nutritionist. The monthly education shall be available at all meal sites and shall include staff qualifications required to perform each activity. Monthly use of the DAIL Senior Health and Wellness Newsletter meets all Nutrition education requirements for both Congregate and Home Delivered.
- (7) Report to appropriate officials such as Department for Community Based Services, EMS, local law enforcement for follow up, conditions or circumstances which place the older person or the household of the older person in imminent danger.
- (8) Providing emergency meals that meet the nutrition requirements of 910 KAR 1:190.
- (9) Employing a site director on a paid or volunteer basis responsible for activities at the site. OAA Title III-C funds may pay a maximum of five (5) hours per day of the site director's time.
- (10) Using NSIP funds to expand meals.

Ensure the following Core Performance Measures for the Nutrition Program for Older Persons are met:

- \*Ensure 100% reports are submitted per due dates.
- \*Ensure 100% required data entered into the State Data System prior to submission of reports.
- \*Ensure 100% of meal participants shall have the nutrition screening completed and referrals made for nutrition assistance.
- \*Ensure 100% nutrition program providers have an educational program plan in place that includes at least 1 monthly educational session on required topics.

**ACL Program Title III-D Disease Prevention and Health Promotion (*applied to only Title IIIB subcontractors*)**

Provide, as outlined in section 361 of the OAA, disease prevention and health promotion programs and activities which have been demonstrated through rigorous evaluation to be evidenced-based and effective.

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Provide only evidenced-based disease prevention and health promotion programs that meet the required criteria in accordance with the ACL.

All programs utilizing Title III-D funding must be pre-approved by BGAAAIL. Contact Chris Thomason at [cthomason@bgadd.org](mailto:cthomason@bgadd.org) for program approval.

**ACL/State Health Insurance Assistance Program (*does not apply to all subcontractors*)**

In relation to this Subcontract, the Contractor agrees to perform the following functions described with particularity for the Administration for Community Living for a Health Information, Counseling and Assistance Program, and shall specifically adhere to Chapter 21 of the Department for Aging and Independent Living's (DAIL) Standard Operation Procedures as found at [www.chfs.ky.gov/DAIL/Standard Operating Procedures](http://www.chfs.ky.gov/DAIL/Standard Operating Procedures).

The State Health Insurance Assistance Program (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 Second Party shall provide the following:

**A- Activities:**

1. 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 Titles XVIII and XIX of the Social Security Act.
  - b. 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.
  - 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.
2. Counseling to individual beneficiaries unable to access other channels of information or needing and preferring locally based individual counseling services.
3. Systems of referral to appropriate Federal or State departments or agencies that provide assistance with problems related to health insurance coverage (including legal problems).
4. 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.

5. 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.
6. Establish a sufficient number of staff positions (including volunteers) necessary to provide the services of a health insurance information, counseling, and assistance program.
7. Assure 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.
8. Collect and disseminate timely and accurate health insurance information to staff members including volunteers.
9. Provide training programs for staff members, including volunteers.
10. Coordinate the exchange of health insurance information between the staff of departments and agencies of the State government, other pertinent federal agencies including ACL, and SHIP staff, including volunteers.
11. 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.
12. Notify the appropriate BGADD/DAIL 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.
13. Perform targeted outreach to counsel low-income, dual eligible, and hard-to-reach populations in rural areas and individuals with Limited-English proficiency.
14. 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.
15. Participate in SHIP training, education and communication activities, such as conference calls, webinars, etc. A portion of BGADD funds should be designated for travel expenses to these events (where applicable).
16. Ensure that newly-appointed staff attends DAIL sponsored SHIP staff training. A portion of BGADD funds should be designated for travel expenses to these events.
17. 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.
18. Maintain a customer-oriented and use-friendly toll-free telephone number, for use by individuals with Medicare, their family members, and caregivers for SHIP related inquiries. If the caller must leave a message, return contact will be made with the beneficiary within a maximum of two (2) business days. The agency will also maintain a voicemail system with clear instructions about the process of intake and returning calls to the client. The message should change according to the current situation at the agency (i.e. holiday, agency shut-down, coordinator travel, etc.).
19. Monitor use of BGADD's grant funds, providing full information as to use and expenditures.

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1. Ensure that no more than five percent (5%) of the allocated funds will be utilized for coordination costs.
2. As a term and condition of a grant award, under 45 CFR 92.34, the Federal awarding agency will retain a royalty-free, nonexclusive, irrevocable license to reproduce, publish or otherwise use and authorize others to use, for Federal government purposes, the copyright in any work developed under the grant, or a sub grant or subcontract and in any rights to a copyright purchased with grant support.
3. 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.
4. Include the express acknowledgement on all SHIP developed public information 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," on all new publications funded solely or in part by the SHIP grant. (HHS Grants Policy Statement: <http://www.hhs.gov/grantsnet/adminis/gpd/index.htm>).
5. The SHIP Logo and Tagline shall appear on all SHIP publications.
6. BGADD reserves the right to impose specially modified SHIP Grant Program Terms and Conditions on Contractor if determined to have materially failed to comply with the SHIP Grant Program Terms and Conditions, including state requirements. BGADD will notify the Contractor in writing when any such changes are made.
7. The Contractor shall administer the State Health Insurance Assistance Program by providing training programs that advocate training for professionals that shall provide outreach, education and counseling services to Medicare and Medicaid beneficiaries, and their representatives. Training for the individual staff shall include the following:
  - a. Prescription Drug Plans and Medicare Health Plans
  - b. Filing original Medicare and private insurance claims and/or preparing Medicare appeals
  - c. Comparing policies and explaining what services each policy provides
  - d. Complying with data and performance reporting through SHIPtalk and National Performance Reporting (NPR) System
  - e. Policy and procedures for basic SHIP administration
  - f. Volunteer management
  - g. Program integrity and quality assurance

**C- Reporting Requirements:**

1. Complete and electronically submit one-hundred percent (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 and Media Activity forms according to ACL and DAIL guidelines into the SHIPtalk/NPR system.
2. Report NPR data on a monthly basis. This includes data from the Client Contact Form and the Public and Media Activity Report Form of the SHIP NPR.
3. Submit and maintain registration of Local users of NPR via the NPR website.
4. Implement National Performance Reporting (NPR) data system security procedures required by ACL and CMS that are designed to secure and protect the confidentiality of

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- data submitted into the SHIP NPR database. This includes regularly confirming the status of SHIP 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 and CMS security requirements. The Contractor shall comply with all ACL and CMS security requirements regarding the NPR user accounts associated with its program.
5. Adhere to the designated Resource Report deadline.
  6. Submit monthly Progress Reports by the 10<sup>th</sup> of each month.
  7. All records pertaining to the SHIP grant including NPR data shall be retained for a period of 3 years, after notification of award closeout, as set forth and described by 45 CFR 92.42.
  8. Maintain 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
  9. A ten percent increase in the number of client contacts from FY 2018.
  10. A ten percent increase in the number of public and media (PAM) from FY 2018.
  11. Implementation of the Volunteer Recruitment and Program Management (VRPM) to expand volunteer recruitment, retention, management and training.
  12. Advertise SHIP services on the radio to help increase awareness.
  13. Enhance your organizational website for use as a volunteer recruitment tool in addition to providing the general information to the public about SHIP.
  14. During Open Enrollment (OEP) you must utilize a Part D Savings spreadsheet provided by DAIL for beneficiaries new to Medicare or currently receiving Medicare to track their savings by enrolling in a new and/or lower estimated cost plan. This is required to be submitted twice during the OEP, on November 15<sup>th</sup> and then at the end of the OEP.
  15. To increase Client Contacts, starting in September 2018 (before OEP) you must mail out a letter to clients that have received services within the last year from BGAAAIL that includes a reminder letter about OEP with instructions on what to do with the Part D worksheet that you include with the letter. If the client returns the Part D worksheet, your SHIP Counselor/Volunteer shall run a plan comparison and either mail, email or snail mail it back to the beneficiary for them to review. Client may then call with questions or enroll.

Comply with all requirement of **ACL SHIP/Benefits Counseling**.

Comply with all requirements of **Core Performance Measures (PM)**

**LTC Ombudsman (does not apply to all subcontracts)**

In relation to this Subcontract, the Second Party agrees to perform the following functions described with particularity for the Long-Term Care Ombudsman Program as set forth in 910 KAR 1:210 Section 5 (2), and Older Americans Act Chapter 2 Section 712 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 of as if fully incorporated herein and is kept on file at the Bluegrass ADD, Lexington, Kentucky.



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- (2) Complete the objectives for this Subcontract as set forth on the district-wide service delivery page of the APPROVED REQUEST FOR PROPOSAL.
- (3) Provide assurances that the provision of service is based on:
  - a. The uniform service definitions established for the ACL programs.
  - b. Preference given to older individuals with the greatest economic or social need with particular attention to low income older individuals, including low income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.
  - c. Policies and procedures provided by the BGADD/BGAAIL or any revisions thereto during the Subcontract period.
- (4) Comply with all applicable provisions of Title III and Title VII Older Americans Act of 1965, as amended, and the regulations promulgated there under regarding the Ombudsman and Elder Abuse programs, including employing one full time District Long-Term Care Ombudsman.
- (5) Show quantitative data reflecting the expected increased performance and decreased response time into the LTCO computerized reporting system.
- (6) The Second Party shall meet the following Long-Term Care Ombudsman Core Performance Measures:
  - a. Ensure the resolution rate shall be 70% or higher, if not at 70% must submit a plan to increase the resolution rate to BGADD/BGAAAIL.
  - b. A Certified Ombudsman, at a minimum, will attend one nursing facility resident council meeting per month, which may coincide with a routine visit. Certified Ombudsman or Friendly Visitor shall attend at least one resident council meeting annually for each nursing facility that has a resident council established within the district.
  - c. Participate in system advocacy annually by raising public awareness and providing education regarding issues affecting long-term care residents including policy and legislative issues. Document activities in Ombudsmanager.
  - d. Accurately document the number of training sessions for new Certified Ombudsman or volunteers in Ombudsmanager. Documentation will show that 100% of Certification Training provided meets the minimum requirement of twenty-four (24) hours of Certification Training.
  - e. Provide continuing education training to Certified Ombudsman and volunteers, excluding Certification Training, to ensure volunteers are aware of ongoing developments and skills needed to maintain health, safety, welfare and rights of residents. Provide at a minimum, four (4) hours of continuing education to Certified Ombudsman and volunteers. These trainings may coincide with advisory council meetings. Document training in Ombudsmanager.

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- f. Report all incidences or suspected incidences of abuse, neglect, and exploitation to the appropriate agencies, within 24 hours of learning of such incidences. The LTCOP shall only disclose allegations of abuse, neglect, or exploitation with the consent of the person or his/her legal representative, the Kentucky Long-Term Care Ombudsman or designee per 1321.51 Confidentiality and Disclosure of Information.
- g. Ensure the Ombudsman Program is accessible to older persons by telephone, correspondence, or person-to-person contact per 910 KAR 1:210 Section 5 (2).

(6) The Second Party shall comply with all requirements as stated in **Additional Requirements**.

**National Family Caregiver Support Program (NFSCP)**

In relation to this Subcontract, the Second Party agrees to perform the following functions described with particularity for the National Family Caregiver Support Program as set forth in the Older Americans Act of 1965, as amended, Title III-E Caregiver.

- (1) Provide services in accordance with Title III E of the OAA and BGADD/BGAAAIL policy and procedure.
- (2) 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.
- (3) All clients must apply for services through the BGADD/BGAAAIL 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.
- (4) Invoices must be submitted at least monthly. All invoices must include the client's signature.
- (5) 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.

**Homecare Program**

In relation to this Subcontract the Second Party agrees to perform the following functions described with particularity for the HOMECARE PROGRAM which specifically includes the following:

- (1) Perform the functions described with particularity in the Contractor's **APPROVED REQUEST FOR PROPOSAL** which is hereby made a part of, as if fully incorporated herein, and kept on file at the Bluegrass ADD, Lexington, Kentucky.
- (2) Provide all clients an opportunity to voluntarily donate toward the cost of services. Utilize all collected donations for the expansion of services and provide supporting documentation per Homecare Regulations 910 KAR 1:180.
- (3) Provide and/or secure appropriate orientation and in-service training for staff responsible for the provision of Homecare services.

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- (4) Maintain records sufficient to identify the result of the service provided each individual and for use in evaluating the effectiveness of the total program.
- (5) Submit billing for only those clients determined to be in need, registered and certified for services, in the manner and format prescribed by the BGADD/BGAAIL.
- (6) Assure that all Homecare Services defined in the proposal are available and provided in the defined geographic area.
- (7) Maintain written policies, procedures, and staff instructions pertaining to the provision of in-home services.
- (8) Review service delivery objectives and expenditures and submit to the BGADD/BGAAIL, an analysis of service utilization levels and expenditures on a quarterly basis.
- (9) Ensure that In-Home Service Providers have a scheduling supervisor who monitors and communicates the delivery of services to the case management agencies. Submit a copy of the service schedule to the Case Manager on a weekly basis.
- (10) Ensure In-Home Services are provided on a schedule that runs from Monday through Friday from 8:00am-6:00pm EST.
- (11) Homecare Client Outcome Measures
  - a. 90% of clients responding to a Client Satisfaction Survey will report that the services provided have been effective in meeting client's needs
  - b. 50% of clients are maintained in least restrictive environment, to satisfaction of client and/or caregiver (based upon Client Satisfaction Survey);
  - c. 50% of caregivers will report that the respite services they received enhanced their ability to care for their loved one.
  - d. 100% of monitoring findings are followed up with staff training and that corrective actions are provided to those staff with deficiencies;
  - e. 100% of reported suspect of abuse, neglect, domestic violence, and exploitation including referrals made to Adult Protective Services is documented in each client's file or centralized log.
- (12) Homecare Administration Outcome Measures
  - a. 40% of clients completed satisfaction survey (with or without assistance);
  - b. 99% of total allocated funds expended;
  - c. 95% of client formal complaints satisfactorily resolved.
- (13) Comply with all requirements of **Homecare**
- (14) **Comply** with all requirements of **Homecare Training**

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### **Homecare Case Management**

In relation to this Subcontract the Contractor agrees to perform the following functions described with particularity for the HOMECARE PROGRAM for Case Management which specifically includes the following:

- (1) Ensure case managers meet program qualifications as defined in 910 KAR 1:180, Section 5.
- (2) Case Manager shall document community resources offered to individuals; document in the client's 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.
- (3) Ensure monthly journal entries and notes justifying clients need for service and service delivery shall be entered in SAMS for all Homecare clients.
- (4) Ensure an Independent Care Coordinator (ICC) meets program qualifications defined in 910 KAR 1:180, Section 5.
- (5) An ICC shall review a social security award letter, bank statement, or official document to verify income and document in the client's file; complete non-traditional meal assessment on all homecare and home delivered meal clients receiving non-traditional meals and retain those in the client's file; determine client eligibility, including any required fees utilizing the homecare fee schedule; complete the nutrition screening and make appropriate referrals regarding each client's nutritional risk assessment and document in client file; document referral made for individuals scoring over a six (6) on the nutrition screening; utilize the person centered planning approach and document the process in the client record including who was involved, agency, and services they will provide; include informal and formal supports on 100% of homecare clients plans of care; ensure 100% of monthly client contacts are made with the client or the caregiver; ensure no duplication of Medicaid Waiver services and document ineligibility of same or similar services through Medicaid in the client's file.
- (6) Ensure only persons meeting the eligibility criteria as listed in 910 KAR 1:220 are enrolled for services in the Homecare Program.
- (7) Ensure only persons who have been screened by the BGADD/AAAIL ADRC are enrolled for services in the Homecare Program.
- (8) Utilize the DAIL priority screening and Homecare Program Determination Worksheet and maintain a copy in each Homecare client's file.
- (9) Ensure services ordered are sufficient to expend forty percent (40%) of the budgeted supply line for Homecare service supplies by the end of the second quarter; a justification shall be submitted to BGADD/AAAIL if forty percent (40%) of the budgeted supply line for Homecare cannot be expended by the end of the second quarter. This justification may include but not be limited to a plan to reallocate funds or plan for expending funds within the remainder of the fiscal year.
- (10) Provide for a case management supervisor to ensure effective administration and coordination of the homecare program and who shall:
  - Perform in-house monitoring of ten percent (10%) of case records and document findings on a quarterly basis
  - Take corrective actions on areas identified as deficient
  - Provide in-house trainings based on the findings
  - Provide in-house review of 25% of all closed cases prior to final close
  - Be available to answer BGADD/AAAIL invoice review program questions as needed

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- (11) Submit the top three (3) findings of Homecare internal monitoring to BGAAAIL Homecare Coordinator on September 15<sup>th</sup> and March 15<sup>th</sup> of the current year and the actions taken to correct them.
- (12) May utilize social service assistant (SSA), who meets the program qualifications per 910 KAR 1:180, 1 (19) (a-h), to support the case manager.
- (13) Ensure each Case Manager receives sixteen (16) hours of approved training annually.
- (14) Ensure that all time billed to case management is spent 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.
- (15) Submit a client success story to BGADD/AAAIL on July 15<sup>th</sup> and January 15<sup>th</sup> of the current year to the Homecare Coordinator.
- (16) Ensure 100% of clients who are contacted and state they no longer need service shall be removed from the waiting list after the third contact and documented as not needing assistance. These individuals shall be provided with the contact information for the local ADRC.

**Homecare Client Outcome Measures**

- a. 90% of clients responding to a Client Satisfaction Survey will report that the services provided have been effective in meeting client's needs
- b. 50% of clients are maintained in least restrictive environment, to satisfaction of client and/or caregiver (based upon Client Satisfaction Survey);
- c. 100% of completed assessments shall have the nutrition screening completed and referrals made for nutrition assistance based on a score of six (6) or more;
- d. 50% of caregivers will report that the respite services they received enhanced their ability to care for their loved one.
- e. 100% of homecare clients' plans of care have the informal and formal supports recorded;
- f. 100% of monitoring findings are followed up with staff training and that corrective actions are provided to those staff with deficiencies;
- g. 100% of reported suspect of abuse, neglect, domestic violence, and exploitation including referrals made to Adult Protective Services is documented in each client's file or centralized log.

**Homecare Administration Outcome Measures**

- a. 40% of clients completed satisfaction survey (with or without assistance);
  - b. 99% of total allocated funds expended;
  - c. 95% of client formal complaints satisfactorily resolved.
- (17) Comply with all requirements of **Homecare**
  - (18) **Comply** with all requirements of **Homecare Training**

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#### Section IV -THE BGADD/BGAAIL RESPONSIBILITIES:

BGADD/AAAIL is designated as the sole Area Agency on Aging for the Bluegrass Region to develop and administer the Regional Area Plan and is primarily responsible for the planning, policy development, administration, coordination, priority setting and evaluation of all regional activities related to objectives of the Older Americans Act of 1965. The BGADD/AAAIL may:

- (1) Provide technical assistance for successful completion of the tasks outlined in this Subcontract.
- (2) Provide invoice forms and instructions to complete contract requirements.
- (3) Ensure that all policy decisions, changes, interpretations, and reinterpretations affecting this Contract are distributed promptly to the Contractor.
- (4) Furnish regulations and procedures in writing to the Contractor.

#### MONITORING REQUIREMENTS:

The BGADD/AAAIL shall:

- (1) Monitor and evaluate the performance of all programs and activities initiated under the OAA for quality and effectiveness (45 CFR 1321.11) and for compliance with the OAA and as applicable in accordance with DAIL SOP and BGAAAIL Policy.
- (2) Contractor shall respond to BGAAAIL monitoring reports by submission of and compliance with a corrective action plan based on monitoring results.
- (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.
- (4) Demonstrate through annual monitoring by BGADD staff that all assurances listed in the area plan and RFP are met.

#### V – FINANCIAL CONTRACT REQUIREMENTS

##### Payments and Invoicing

- (1) Payment by the BGADD/BGAAIL to the Contractor shall be conditioned upon receipt of appropriate, accurate, and actual invoices with backup documentation including source documentation submitted by the tenth (10<sup>th</sup>) day of each month following the month of service to the BGADD/BGAAIL by the Second Party, as well as the Contractor's continued satisfactory performance as determined by the BGADD/BGAAIL, and shall be subject to the availability and allocation of local Bluegrass ADD or governmental funds, or state or federal funds necessary to finance the performance of the services described in this Subcontract. ***All services billed must be documented, as required, in the SAMS Data Management System.*** If invoices are not received by the tenth (10<sup>th</sup>) day of each month, no approval or payment shall take place until the following month's submission of invoices. In this event, individual monthly invoices are required and shall not be accepted in a combined amount on a single invoice. If notification of incorrect invoices is received, the Contractor will have two (2) business days to respond. If invoices are not correct in totality within fifteen (15) business days, payments will not be made until the following month with the submission of

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that month's invoice. June invoices shall be due to BGADD/BGAAAIL in compliance with the Commonwealth's fiscal year close out procedure. A closing memo will be issued by the BGADD/BGAAAIL to each provider with specific date instructions to follow FY19 closing schedule. Required data on invoices or invoice backup forms must match the data recorded in SAMS.

- (2) Payment by the BGADD/BGAAAIL to the Contractor shall be made only after the BGADD Financial Officer or their designee has approved the subcontract. After approvals, have been given, payment shall be made within forty-five (45) working days of receipt of accurate and acceptable invoices from the Second Party.
- (3) NSIP Program: Reimbursement of actual allowable expenditures shall be made in accordance with the Approved Budget attached to this Subcontract and payable upon receipt of appropriate billings. Reimbursement of NSIP shall be based on the number of meals served, as reported on the applicable NSIP meals report for the previous fiscal year. This amount is determined by the Department of Aging and Independent Living and is subject to change based upon receipt of funds from NSIP.
- (4) The federal share of a project cost 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. Failure of the Contractor to provide the required local match will result in proportionate reduction of the federal allotment. For the Homecare program, state cost is not earned until the total required match is provided (Refer to BGADD/BGAAAIL of Aging Services Request for Reimbursement Forms). Match requirements may be referenced at 2 CFR 200.29, 2 CFR 200.306, KRS 205.460, KRS 205.455 and KRS 205.460.
- (6) The Contractor's Approved Cost Allocation Plan. Failure to meet the "Federal Financial Participation" or "State Financial Participation" requirements for allowable costs will result in the requirement to refund such ineligible costs to the BGADD/BGAAAIL. Upon confirmation of final closure of audit, or final expenditure report, any funds remaining from the allocation shall be refunded to the BGADD/BGAAAIL.

The Contractor shall maintain a written plan for allocation of direct and/or indirect costs in instances where the contractor organization operates more than one (1) project, services, program or activity. The general requirement for any cost allocation plan is that it shall provide for an equitable distribution of allowable direct cost and indirect costs to each project, service, program or activity that benefits from such costs. The cost allocation plan must be consistently and uniformly applied except where it is determined to be in the best interest of the Bluegrass ADD and contract provisions specifically exempt a particular fund source. Only those costs that are not specifically identifiable to a single project, service, program or other direct activity shall be allocated. In the event the Contractor has a cost allocation plan in operation which has been accepted and approved by the Second Party's cognizant federal Bluegrass ADD, the Bluegrass ADD will recognize such cost allocation plan as applicable for purposes of recording and reporting reimbursable costs to the extent that such costs are allowable. Acceptance of such a plan by the Bluegrass ADD is contingent on compliance by the Second Party with all federal and/or state laws, regulations and rules applicable to the various programs and activities funded by the Bluegrass ADD and, further, that an audit will be completed and reported to the Bluegrass ADD which will include a statement as to the Second Party's compliance with the indirect administrative cost limitations set forth in this provision.

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- (7) Any interest income earned by the Contractor on any portion of the funds reimbursed under this agreement **shall be used to expand services in the programs in which the interest is earned**. It is also expressly understood that if interest income, earned from a specific fund dollars, is not expended for the same services in the same fiscal year in which it is earned, the funds shall be returned to the BGADD/BGAAIL. Procedures to minimize the time elapsing between the transfer of funds and this disbursement by the Contractor shall be maintained.
- (8) The BGADD/BGAAIL shall reimburse the Second Party for benefits accrued during the Subcontract period only and shall not be liable for benefits accrued prior to the beginning of nor after the end of Subcontract period. All invoices for benefits, including sick, compensation, and annual leave time must be submitted prior to the Subcontract expiration date to be considered appropriate, acceptable, and timely.
- (9) The BGADD/BGAAIL shall reimburse the Contractor for services rendered only. If, for any reason, the Contractor is unable to render services, the BGADD/BGAAIL shall not be liable for payment to the Contractor for the time period in which the Contractor does not provide the services for which the BGADD/BGAAIL contracted.
- (10) The BGADD/BGAAIL retains the right to withhold payment if the Contractor does not comply with the programmatic and fiscal reporting requirements," Schedule of Due Dates for Payments and Reports" or does not adhere to the approved REQUEST FOR PROPOSAL.
- (11) Any funds remaining unencumbered for allowable expenditure upon termination of the Subcontract shall be refunded to the BGADD/BGAAIL.
- (12) Ensure at least ninety percent (90%) of all funding provided through BGADD/AAAIL shall be used for service provision.

**Funding Out Provision**

The BGADD/AAAIL may terminate this agreement if funds are not appropriated to the Contracting agency or are not otherwise available for the purpose of making payments Without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The BGADD/AAAIL shall provide the Contractor thirty (30) calendar days written notice of termination of the agreement due to lack of available funding.

**Match Requirements**

Local Match - Meet the matching requirements through allowable costs and/or third party in-kind contributions, or cash, pursuant to the Budget/Fiscal Summary form included as the budget attachment, along with substantial documentation to include but not limited to volunteer forms, provider invoices, and floor plan with square footage. The application of funds shall be in accordance with requirements for local match of the specific funding source, as referenced in 2 CFR 200.29, 2 CFR 200.306. Notwithstanding KRS 205.460, KRS 205.455 and KRS 205.460. The approved Request for Proposal of funds shall be in accordance with requirements for local match of the specific funding source.



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(1) Administration for Community Living (ACL) - As stated in the Older Americans Act of 1965, as amended, Title III Federal funds may be used for not more than 85 percent of the cost of supportive services, senior centers, and nutrition services. State funds, Local cash, and in-kind must provide the remaining 15%. National Family Caregiver Support Program requires a 25% match to be made up of State funds, local cash, and in-kind. No match is required for Title III-D Disease Prevention and Health Promotion Program.

**NOTE: Program Income May Not be used as match for Title III.**

(2) Homecare - State - required local match. Notwithstanding KRS 205.460, entities Subcontract with the BGADD/BGAAIL to provide essential services under KRS 205.455 and this section shall provide local match, not less than the amount specified in the Second Parties Program Allocation and Match. Local match may include any combination of materials, commodities, transportation, office space, personal services or other types of facility services, or funds.

(3) All other programs funded under this Subcontract are 100% state and/or federally funded.

**Verification of Required Match**

(1) Match will be corroborated as a part of the audit 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, or as stipulated in this contract for programs funded by State Funds.

(2) Match will be verified by certified statements of the service provider and submitted to the BGADD/BGAAAIL when applicable.

(3) If a combination of the above circumstances exists, then a combination of audit and certified statements shall be necessary to verify the adequacy of match.

(4) Match verification documents shall be completed by the service provider and submitted to the Contractor when applicable. For in-kind match, documentation verifying the value of the in-kind must be submitted at the beginning of the fiscal year.

(5) The BGADD/BGAAIL retains the right to request a review of these documents.

(6) Match may include State funds (Title III only), local cash, program income (for homecare only), in-kind contributions, unreimbursed expenditures, corporate funds or assets in accordance with requirements of the specific funding source.

(7) In-kind contributions shall be defined as stated in 45 CFR Part 92.24 and its application shall be subject to applicable portions of this regulation, Office of Management and Budget (OMG) Federal Register Volume 78, NO. 248 Subsection 200.96, and contractual provisions.

(8) The entire balance of required local match must be paid and/or reported by June 30<sup>th</sup>.

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**Program Income**

- (1) Program income shall be used to purchase additional services within the program they were collected, within the same month as collected.
- (2) Homecare Program Income used to cover required local match must be submitted to the BGADD/BGAAIL on a monthly basis.
- (3) Collect, 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 AoA Policy, Title III Regulations, and the approved budget. Program Income must be used for current costs; i.e., costs incurred during the same budget period in which the income is earned.

**Other Expenses**

The Contractor shall be reimbursed for no other expenses of any kind, unless and except as specifically authorized within the specifications of the Subcontract.

- (1) Any deviation from requirements as set forth in the BGADD/BGAAIL's Aging regulations, Subcontract requirements and applicable federal requirement which in the judgment of the independent auditor, relate to substantive program or financial matters, shall be included in the Audit Report.
- (2) The Contractor shall submit an original and one copy of all final expenditure reports for contractors and subcontractors along with two copies of the audit, no later than October 10 after the ending date of this Subcontract or upon completion of any other audits required of the Bluegrass ADD for the report period to BGADD/BGAAIL of Aging Services. The BGADD/BGAAIL shall have the right to deny payments for noncompliance with this provision.
- (3) A copy of the engagement letter shall be submitted to the BGADD/BGAAIL, 699 Perimeter Drive, Lexington, KY 40517 three months prior to the year end or no later than July 31, 2019. 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 BGADD/BGAAIL no later than July 31, 2019.
- (4) The First Party will conduct a review of audit reports submitted by the Second Party. The Second Party shall ensure that the auditor, if in agreement with recommendations of the reviewer, make timely revisions to the audit report or perform additional follow-up audit work in order to correct quality deficiencies, or if not in agreement, to respond in writing why the review recommendation is not valid or not warranted.

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### **Subcontracting**

- (1) **Third-party subcontracts or Second Tier subcontracts are prohibited. The only exception shall be based on an annual written request submitted by BGADD/AAAIL that has DAIL approval.**
- (2) In the event that a firm fixed rate third party subcontract is preferable to a cost reimbursement contract and is a cost-effective method of subcontracting, the Contractor is authorized to enter into a fixed rate third party subcontract. In no event shall the BGADD/BGAAIL be responsible should the third-party subcontractor incur costs in excess of reimbursements received under such a fixed rate contract. **Amendment to such a fixed rate third party subcontract with a for profit would require prior approval by the BGADD/BGAAIL.**
- (3) The Contractor agrees that all requirements of this Subcontract shall also be applicable to all third-party subcontracts and that third-party subcontractors shall be required to report to the Contractor in a manner that will meet the Contractor's reporting requirements to the BGADD/BGAAIL. The Contractor agrees to monitor approved third party subcontractors for programmatic and fiscal compliance. The Contractor agrees to utilize restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and State law regulations, and terms and conditions of the award in contracting with subcontractors. Upon written request of the Contractor and for a good cause shown, one or more requirements of this subcontract may be waived in writing by the BGADD/BGAAIL as not being applicable to subcontractors.

### **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 data or communication or technical support system. Such plans shall enable the Contractor to continue to meet all 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 solely by the Contractor.

### **Protection of Personal Information Security and Breach Investigation Procedures and Practices Act.**

**I.** Contractors that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, KRS 61.932, KRS 61.933, and KRS 61.934 shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

**II.** The Contractor hereby agrees to cooperate with the BGADD/BGAAAIL in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

**III.** The Contractor shall notify as soon as possible, but not to exceed seventy-two (72) hours, BGADD/BGAAAIL, the Commissioner of the Kentucky State Police, the Auditor of Public Accounts,

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and the Commonwealth Office of Technology of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2)(b)2 applies and the vendor abides by the requirements set forth in that exception.

**IV.**The Contractor hereby agrees that the BGADD/BGAAAIL may withhold payment(s) owed to the Contractor for any violation of the Identity Theft Prevention Reporting Requirements.

**V.**The vendor hereby agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.

**VI.**Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the Contractor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

**VII.**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, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth of Technology.

#### **Amendments/Modifications**

Modifications or amendments may be made to this Subcontract in accordance with 200 KAR 5:311. The Contractor may request a modification by submitting a written request to the Bluegrass Area Bluegrass ADD on Aging, 699 Perimeter Drive, Lexington, KY 40517. Modifications are not in effect until written approval is received from the BGADD/BGAAAIL.

#### **Corrective Action Plans (CAP):**

BGADD/BGAAAIL may cancel the program contract with the vendor if the program fails to implement a corrective action plan. BGADD/BGAAAIL shall place the vendor on written notification of major deficiency for failure to implement a corrective action plan which may result in termination of the contract agreement if the vendor continues to fail to meet the requirements of the CAP or if another CAP is issued for the same violation within a two-year period.

#### **Termination**

- (1) The subcontract may be terminated in accordance with 200 KAR 5:312. The Bluegrass ADD shall have the right to terminate this agreement at any time upon 30 days prior written notice served on the Contractor by registered or certified mail outlining the reason for the cancellation. The Contractor has the same such right to terminate this agreement upon 30 days written notice served on the Bluegrass ADD by registered or certified mail outlining the reasons for cancellation.
- (2) Within five (5) working days of terminating this Subcontract for any reason, the Contractor shall deliver to the BGADD/BGAAAIL a complete and current list of any and all of the BGADD/BGAAAIL's equipment and furniture in its possession, custody, or control. Within thirty (30) working days of BGADD/BGAAAIL's written request, Second Party shall make available any equipment and/or furniture for pick up.

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## Section VI - Terms and Conditions of the Contract

### Beginning of Work

The Contract is not effective and binding until approved by Bluegrass ADD. The Contract shall represent the entire agreement between the parties. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this Contract.

### Registration with the Secretary of State by a Foreign Entity

Pursuant to KRS 45A.4801(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 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 in its solicitation response. Foreign entity is defined within KRS 14A.1-070.

**For all foreign entities required to obtain a certificate of authority to transact business in the Commonwealth, if a copy of the certificate is not received by the contracting agency within the time frame identified above, the foreign entity's solicitation response shall be deemed non-responsive or the awarded contract shall be cancelled.**

Businesses can register with the Secretary of State at <https://secure.kentucky.gov/sos/ftbr/welcome.aspx>.

### Term of Contract

The initial Term of the Contract shall be for a period from July 1, 2018 to June 30, 2019.

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

### Contract Components and Order of Precedence

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

1. This written agreement and any subsequent written amendments to this agreement; and
2. Any clarifications concerning the Contractor's 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.

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### **Changes and Modifications to the Contract**

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 Second Party, and incorporated as a written amendment to the Second Party prior to the effective date of such modification or, written clarification, and/or correspondence shall not be construed as amendments to the Contract.

If the Second Party finds at any time that existing conditions made modification of the Contract necessary, it shall promptly report such matters to the BGAAAIL Director for consideration management approval.

### **Changes in Scope**

The BGADD/BGAAAIL may, at any time by written order, make changes within the general scope of the Contract. No changes in scope are to be conducted except at the approval of the BGADD/BGAAAIL through the process described in – **Changes and Modifications to the Contract**.

### **Cancellation**

The BGADD shall have the right to terminate and cancel this agreement at any time upon thirty (30) days written notice served on the contractor by registered or certified mail outlining the reasons for the cancellation. The Contractor has the same such right to terminate said agreement, upon thirty (30) days written notice served on the BGADD by registered mail or certified mail outlining the reasons for the cancellation.

### **Payment**

The fees and expenses relative to the performance of the services outlined in the Contract shall not exceed the amount as approved in the Contract. The services are to be performed during the term of the Contract. The Contract is not effective and binding until approved by the Financial Officer of the Bluegrass ADD.

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 the Payment and Invoicing Requirements Section V-1 of this contract.

### **Expenses**

The contractor shall only be reimbursed for those expenses that are expressly detailed in the Contract.

Invoicing for fee: The contractor's fee shall be documented on an original invoice(s) detailing the work performed and the time frame in which it was performed. BGADD has established a firm fixed unit rate for reimbursement of services rendered. Contractor agrees to accept this fixed unit rate. If contractor determines a need for an increase in this fixed unit rate, a request must be submitted in writing to BGADD. This request must show just cause for the increase. Increases are at the discretion of BGADD. Increases of more than 5% will not be granted. No increase may be requested after February 1, for the fiscal year.

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Invoicing for travel expenses: If travel expenses are allowed under the subcontract, they will be submitted pursuant to BGADD/AAAIL travel and hourly rate policy.

Invoicing for miscellaneous expenses: Allowable expenses shall be documented on an original invoice or certified copy.

### **Social Security**

The Second Party and all other parties so contracted for services under the scope of service of this Contract agree that they are cognizant that Bluegrass ADD is not liable for Social Security contributions pursuant to 42 U.S Code, Section 418, relative to the compensation of the Second Party during the effective dates of this Contract.

### **Advertising Award**

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.

### **No Required Use of Contract**

This contract does not guarantee any minimum use of services. The Bluegrass ADD 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 Contract**

Bluegrass ADD and the Second Party agree to the terms and conditions as set forth in this Contract and as set forth in all Attachments incorporated herein by reference. This Contract and the Attachments incorporated herein by reference comprise a full and complete expression of the rights and obligations of the Parties as to the subject matter hereof and they shall supersede any and all other agreements, written or oral, heretofore made by the Parties.

### **Attachment(s)**

The Attachment(s) as referenced in this Contract is/are incorporated into this Contract and is/are binding on all Parties. If an Attachment(s) is/are in conflict with this Contract and its contract clause(s), this Contract and its contract clauses shall prevail.

### **Effective Date of Contract and Earliest Date of Payment**

The Contractor agrees to perform the services and functions specified during the term of this Contract. It is understood that this Contract is not effective and binding until approved by the Bluegrass ADD. The Bluegrass ADD shall provide timely notice to the Second Party of disapproval of this Contract or any amendment thereto.

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**Extension Periods and Amendments to Contract**

The terms and conditions of this Contract may be extended or amended, and are subject to the approval of the Bluegrass ADD. The Contractor may request an amendment by submitting a written request to the Bluegrass ADD. Amendments are not in effect until written approval is received from the Bluegrass ADD. The Contractor shall not request an amendment for the last sixty (60) days of the Contract period.

**Funding**

This Contract is expressly conditioned on the availability of state and federal appropriated funds. The Bluegrass ADD shall fund the delivery of services and supports, and activities under the terms and conditions of this Contract to the extent that the funding allocations specified are made available to Bluegrass ADD. The Second Party shall have no right of action against Bluegrass ADD in the event that Bluegrass ADD is unable to perform its obligations under this Contract as a result of the suspension, termination, withdrawal, or failure of funding to Bluegrass ADD or lack of sufficient funding to Bluegrass ADD for any activities or functions contained within the scope of this Contract.

Other provisions of this Contract notwithstanding, the Second Party agrees that if funds are not appropriated or are not otherwise made available to Bluegrass ADD for the purpose of making payments hereunder, then Bluegrass ADD shall be authorized to make payment to the extent possible and/or terminate this Contract in accordance with the section Provisions for Termination without obligation for the payment of any cancellation or termination charges and without any other obligation or liability hereunder.

**Funding Determinations**

The Contractor hereby acknowledges and agrees that it shall follow any and all requirements imposed by the law, the governmental entities, or the specific grants or other sources providing the funding for this Contract. The Contractor further acknowledges and agrees that, in the event that there is a final determination that any such requirements were violated or that any funds provided pursuant to this Contract were either handled, spent, paid, matched, maintained, documented, or supported insufficiently or inappropriately, any recoupment of such funds or any other damages related thereto, which are suffered by the BGADD, shall be specifically subject to the Indemnification provisions of this Contract.

**Total Amount and Subcontract Period**

The Contractor's fees and expenses relative to the performance of the services described herein shall not exceed a total of the amount specified by the budget presented in this agreement. The period within the current fiscal year in which the subject services are to be performed is from **July 1, 2018** through **June 30, 2019**.



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### **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 Bluegrass ADD.

### **Bankruptcy**

In the event the Contractor becomes the subject debtor in a case pending under the Federal Bankruptcy Code, the Bluegrass ADD's right to terminate this Contract may be subject to the rights of a trustee 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 Bluegrass ADD for the monetary damages incurred as a result of such default, and
- (3) Provides adequate assurance of future performance, as determined by the Bluegrass ADD.

### **Contractor Cooperation in Related Efforts**

The Bluegrass ADD 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 Bluegrass ADD employees. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Bluegrass ADD employees.

### **Notice(s)**

Unless otherwise instructed, all notices, consents, and other communications required and/or permitted by this Contract shall be in writing.

After the Award of Contract, all communications of a contractual or legal nature are to be in writing and sent to the Agency Contact Person, listed on page one of this document. Notices made by BGADD/AAAIL to the Contractor shall be sent to the Contractor Representative.

### **The Contract**

The BGADD/AAAIL has concluded that either BGADD personnel are not available to perform said function, or it would not be feasible to utilize BGADD personnel to perform said function; and the Contractor is available and qualified to perform such function; and for the abovementioned reasons, the BGADD/AAAIL desires to avail itself of the services of the Contractor.

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### **Effective Date of Contract and Earliest Date of Payment**

This agreement is not effective and binding until the CHFS/DAIL has approved the contract.

Payments on shall not be authorized for services rendered after CHFS/DAIL disapproval, unless overridden by the Secretary of the Finance and Administration Cabinet.

### **Contract Renewals**

Upon expiration of the initial term, contract renewal shall be subject to prior approval from CHFS/DAIL and contingent upon available funding.

### **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.

### **Choice of Law and Forum**

All questions as to the execution, validity, interpretation, construction and performance of this contract shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of this contract shall be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky.

### **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.

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.

### **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.

### **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

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Contract did not contain the particular part, term, or provision held to be invalid, if the remainder of the Contract is capable of performance.

### **Indemnification**

The Contractor shall indemnify and hold harmless Bluegrass ADD 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 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 Agreement with Bluegrass ADD; (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 Bluegrass ADD in an unauthorized manner, provided that such action was not taken by Contractor or as a result of the express written request of Bluegrass ADD; or (f) Contractor's failure to comply with any applicable state or federal laws or regulations.

Provided, however, in the event the Contractor is a state Bluegrass ADD or subcontracts for services with a state Bluegrass ADD subject to the jurisdiction of the Board of Claims pursuant to KRS 44.070 through KRS 44.160, the Bluegrass ADD's tort liability shall be limited to an award from the Board of Claims up to the jurisdictional amount.

### **Sovereign Immunity**

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

### **Force Majeure**

Neither Party shall be liable for public utility performance (e.g., Postal service, telephone or water company) or for the consequence of public utility non-performance. Events or conditions beyond the reasonable control of the Parties, such as natural disasters, fires, floods, elements, transportation crashes, or utility failures shall not be construed as non-performance, nor shall reductions be applied as a result of such events, provided that Bluegrass ADD shall have the right to obtain the necessary services elsewhere in the event of such non-performance by the Contractor and 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 Bluegrass ADD 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 in writing with proof of receipt within five (5) business days of the existence of a Force Majeure event or otherwise waive this right as a defense.

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### **Obligation of Good Faith**

Each party shall be obligated to act in good faith in the performance and enforcement of its obligations herein, and shall deal fairly, honestly and reasonably with the other party, having due regard for all relevant facts and circumstances.

### **Code of Ethics**

The Contractor and all professional personnel who may provide services under this contract or any subcontract with the Contractor shall be familiar with and abide by any and all code of ethics or conduct as designated by CHFS and BGADD that have been established by a national or regional association and is generally recognized as being applicable. Failure of the Contractor to abide by the applicable code of ethics shall result in the immediate termination of the contract.

### **Purchasing and Specifications**

The Contractor certifies that the Contractor will not attempt in any manner to influence any specifications to be restrictive in any way or respect nor will it make any attempt in any way to influence any purchasing of services, commodities or equipment by the BGADD.

### **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, Bluegrass ADD, or other state funds.

### **Service Delivery Requirements**

All services provided by the Contractor under the terms and conditions of this Contract shall be delivered in accordance with:

All applicable federal and state statutes and regulations as they are currently in effect;

All commitments and assurances as set forth by Bluegrass ADD grant awards with respect to goals, strategies, funding, and outcomes made by the Bluegrass ADD as required by and contained in grant applications to federal agencies, foundations, and other agencies providing grant funding and in the resulting award notices from those agencies; and

All final federally-funded grant award terms and conditions, including federal reporting and expenditure requirements, for any federally-funded proposed project developed jointly by the Second Party and Bluegrass ADD and submitted to a federal Bluegrass ADD.

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### **Roles and Responsibilities for Proposed and Existing Staff**

The roles and responsibilities and the written qualifying criteria for all personnel to be employed under the scope of work for all projects funded under this Contract, including any proposed employees under subcontract to the Contractor, shall be in compliance with state and federal laws governing the distribution of funds and the performance of activities as set forth in the project(s) in this Contract. The Contractor shall maintain and make available, upon written request, documentation of all personnel policies and procedures that govern the recruitment, hiring and performance evaluation for all personnel funded under this Contract. All employees hired by the Contractor or its subcontractors and funded under the terms and conditions of this Contract, shall have position descriptions which set out the required qualifications, skills and knowledge required to complete the scope of work as set out under this Contract.

### **Terms and Conditions of Contract Payments**

The Contractor shall not begin work on this contract until the Bluegrass ADD or its authorized designee has approved the contract.

Bluegrass ADD shall make payment to the Contractor only after the Bluegrass ADD approves the contract except as otherwise exempt. Once approved, Bluegrass ADD shall make payment to the Contractor upon receipt of accurate, acceptable and timely invoices, as specified in the Contract, submitted by the Contractor under the terms and conditions of the Contract. Payment is contingent upon Contractor's continued satisfactory performance throughout the duration of contract, as determined by Bluegrass ADD. The invoice shall contain at a minimum the following information:

Description of the service performed;

Itemized statement of costs by service at the fixed rate of reimbursement;

Dates and hours, if applicable, of the services provided; and

Other information as required in this Contract.

Bluegrass ADD shall reimburse the Contractor for services rendered only. If, for any reason, the Contractor is unable to render services, Bluegrass ADD shall not be liable for payment to the Contractor for the time period in which the Contractor does not provide the services for which Bluegrass ADD contracted.

Bluegrass ADD shall reimburse the Contractor for benefits accrued during the contract period only in accordance with the approved budget and shall not be liable for benefits accrued prior to the beginning of or after the end of the contract period. All invoices for benefits, including sick, compensation, and annual leave time must be submitted prior to the contract expiration date to be considered appropriate, acceptable, and timely.

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Payment is subject to the availability and allocation of local Bluegrass ADD or governmental funds, or state or federal funds necessary to finance the performance of the services described in this Contract. Bluegrass ADD retains the right to withhold payment if the Contractor does not comply with Bluegrass ADD programmatic and fiscal reporting and monitoring requirements.

**Total Amount of Funds and Budget Revisions**

The Contractor shall not be reimbursed for any expenses other than those expressly prescribed in this Contract and other Attachments incorporated herein by reference. Bluegrass ADD 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 Bluegrass ADD 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.

**Travel and Travel Hourly Rate (if applicable)**

The Contractor shall not be paid for travel expense unless and except as specifically authorized under the specifications of this Contract. Unless otherwise indicated, travel reimbursement for activities under the terms and conditions of this Contract shall be in accordance with the Legislative Research Commission Government Contract Review Committee Travel Policy #98-1 and 200 KAR 2:006 notwithstanding Section 2(1). No travel time or travel expenses shall be included in the hourly rates of the Second Party's employees, or any subcontractor's employees to the Second Party, under this Contract.

**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.

All references to the Contractor shall be construed to encompass both the Contractor and any subcontractors of the Contractor.

**Responsibility for Subcontractor Contract Requirements**

The Contractor shall have a Contract with any subcontractor that the Contractor contracts with to meet the statement of work, method of payment, and deliverables of this Contract that specifies the responsibilities of the parties and the cost. In addition, the Contractor's Contract with the subcontractor shall specify that all requirements of this Contract are applicable and binding on the subcontractor. Any plan to subcontract any of the provisions of this Contract must be set forth in the Contractor's proposal for the delivery of products or services and included in the body of the contract in the subcontractor's section. The subcontractor must make available to the Second

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Party and to Bluegrass ADD, if requested, copies of personnel records and documentation of employees' compliance with the terms and conditions of this Contract.

No obligation or right of Contractor under this Contract shall be subcontracted to another, without prior written approval, of Bluegrass ADD after Bluegrass ADD has had the opportunity to review all contract documents setting forth the terms and conditions for the subcontract. Contractor, upon the Bluegrass ADD's request, shall submit the subcontract for approval to: Bluegrass ADD, 699 Perimeter Drive, Lexington, KY 40517

**Subcontractor Monitoring Requirements**

The Contractor shall monitor subcontractors for programmatic and fiscal compliance with the terms and conditions of this Contract and those specific provisions set out under the Contractor's contract with the subcontractor. The Contractor agrees to utilize restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and State laws regulations, and terms and conditions of the federal grant award in contracting with subcontractors.

Contractor further understands and agrees, and shall ensure that any Subcontractor understands and agrees, that CHFS, Bluegrass ADD, and any of its duly authorized agents or representatives shall have access to any books, documents, papers, records, or any other materials which are pertinent to this contract or Subcontract, for the purposes of making monitoring, auditing, examination, excerpts, and transcriptions.

**Indirect Cost**

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

**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) are resolved in accordance with applicable federal and/or state laws, regulations, and policies (except as may otherwise be specified in this contract).

**Access to Records**

BGADD/AAAIL and Contractor will comply with the provisions of KRS 45A.695, "Access to Contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030(8) and (10), agrees that the contracting agency, the CHFS/DAIL, 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 evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the

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bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

### **Violation of Tax and Employment Laws**

KRS 45A.485 requires the Contractor and all subcontractors performing work under the agreement to reveal to the BGADD/AAAIL, prior to the award of a contract, any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to the state sales and use tax, corporate and utility tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

To comply with the provisions of KRS 45A.485, the Contractor and all subcontracts performing work under the agreement shall report any such final determination(s) of violation(s) to the BGADD/AAAIL by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

KRS 45A.485 also provides that. For the duration of any contract, the Contractor and all subcontractors performing work under the agreement shall be in continuous compliance with the provisions of those statutes, which apply to their operation, and that their failure to reveal a final determination as described above, or failure to comply with the above statutes for the duration of the agreement shall be grounds for the BGADD/AAAIL's cancellation of the agreement and their disqualification from the eligibility for future contracts for a period of two (2) years.

Contractor must check one:

- X   The Contractor has not violated any of the provisions of the above statutes within the previous five (5) year period.
- The Contractor has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). Attached is a list if such determination(s), which includes the KRS violated, the date of the final determination, and the state agency which issued the final determination.



**Audit Requirements (if applicable)**

The objective of an audit is to provide users of the issuer's financial statements with an opinion by an independent auditor whether the financial statements, including applicable supplemental information, are presented fairly in all material respects in accordance with the applicable reporting framework. The purpose of an independent auditor's opinion is to enhance the degree of confidence that intended users may place on the financial statements. The objectives of a desk review of an audit report or quality control review of an audit is to determine whether the report or the audit is acceptable under the reporting or audit requirements of applicable standards, to identify quality deficiencies that may warrant revisions to the audit report or follow-up audit work to the audit, and identify issues that may require a Party's attention. The Contractor shall submit a complete, correct audit, and final invoice in the prescribed format to BGADD/AAAIL by 4:30pm EST, October 10 of the current year.

The Contractor shall have a financial audit for period ending June 30<sup>th</sup> 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) for 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.
- C. Auditing standards generally accepted in the United States of America.

The audit report shall contain a supplemental schedule, BGADD/AAAIL 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. For example:
  - i. Title III Administration shall be separated out and not included in a lump sum.
  - ii. Title III Ombudsman shall be separated out and not included in Title III-B funds.
- B. Matching funds, which include Local Cash, In-Kind, and Program Income, must also be separated out. Each match fund shall be presented as a standalone and not lumped together.

- C. A final, audited, invoice must also be turned in with the audit report.

An integral disclosure note to this schedule shall describe details of deferred revenue.

Include notes that describe accounting policies used in preparing the schedule, and note if the non-federal entity elected to use the 10% de minimus 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.

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

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).

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

The Contractor shall not pass-on costs or charges as an expense to BGADD/AAAIL; or any program funded by BGADD/AAAIL for the costs incurred by the independent auditor for time spent correcting deficiencies in audit reports.

The Contractor is required to submit the following documents, by dates certain as follows:

- A. A copy of the executed engagement letter with the auditor's latest peer review attached, and any contract for audit services, between the independent auditor and Contractor, by July 31<sup>st</sup>.
- B. An electronic copy of the final audit report, at a date immediately after acceptance, no later than January 31<sup>st</sup>.
- C. Any communications with Those Charged with Governance from the independent auditor to the Contractor, immediately upon receipt, and in particular if there are issues of finding of:

- i. 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.
- ii. Significant deficiencies or material weaknesses in internal control over financial reporting or major programs, or material questioned costs.

Copy BGADD/AAAIL with any Corrective Action Plan as a result of financial statement findings or federal awards findings and questioned costs as a response to the independent auditor or to a federal agency.

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

Requests for extensions of deadlines concerning audits.

If the Contractor 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 audit report complies with all requirements set forth above.

### **Equipment and Property**

The Contractor shall not purchase equipment or furniture 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:

### **Property of BGADD and/or CHFS**

Equipment and property purchased using Contract funds for the purposes of fulfilling the requirements of this Contract, and which may include, but not be limited to, furniture, computer software, computer hardware, office equipment, and supplies are considered the property of BGADD with any single item purchase of \$500.00 or more, as well as single item purchases of \$5000.00 or more (capital expenditures), requiring prior approval by the BGADD. Any Capital Expenditures of \$5,000 or more with Federal Dollars must also have the Federal Bluegrass ADD Prior Approval before the Federal government will allow the costs in accordance with 2 CFR Part 200. This property will remain as such, unless otherwise set forth in this Contract or other controlling documents incorporated herein by reference.

### **Property Control Ledger/Logs**

The Contractor shall maintain a property control ledger/log that lists all property and/or furniture provided (whether leased or purchased) with funds from this contract. As items are procured, all items cost of \$500 or more must be assigned a Property tag which includes a property number and that the item is the property of BGADD with exception of expendable office supplies. The second party shall immediately affix the tag provided to the corresponding property.

- a. Property Tag Number;
- b. Equipment serial number;
- c. Full Description of the item including make, model, color, etc.;
- d. Unit invoice to include all cost (i.e. upgrades to the item such as additional computer memory purchased);
- e. Date of purchase and/or lease;
- f. Location where the equipment and furniture are located, include full address
- g. Name of individual responsible for the equipment.

If there is a change to the information above during the course of this contract, the inventory ledger should be corrected and dated.

### **Requirement of Inventory**

#### **1. Inventory Tracking**

The Contractor shall conduct a complete, physical inventory of all equipment and/or furniture provided by BGADD and/or purchased with funds from this contract and provide such to the Bluegrass ADD/AAA by February 1<sup>st</sup> of each year unless otherwise stated herein or unless BGADD staff requests the inventory ledger during annual monitoring of this contract. Said findings shall include the information in **Property Control Ledger/Logs** above 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, inventory ledger is to be immediately completed.

## **2. Loss/Destruction**

The Contractor shall immediately notify the BGADD Aging Department if an item purchased by BGADD or using funds through this contract is damaged, missing, or stolen. The Second Party shall forward in writing to BGADD/AAAIL 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 BGADD owned or purchased using contract funds property and supplies no longer needed, may be declared surplus and disposed of upon prior approval from the BGADD. Upon identification of items to be surplus or returned, the Contractor shall notify the BGADD, by mail, within thirty (30) calendar days when any of the following occurs:

- a. The equipment or furniture is no longer needed by the Contractor 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 notification, the Bluegrass ADD 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 Second Party shall deliver to BGADD a complete and current inventory of any and all of the BGADD's equipment and furniture in its possession, custody, or control. Within thirty (30) business days of the contract expiration/termination date, the Second Party shall return or make available any equipment and/or furniture.

## **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 Second Party 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 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 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.

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. The Contractor shall assure 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 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.

### **Research Project Approval and Institutional Review Board Requirements**

Any proposed research project undertaken under the terms and conditions of this Contract shall follow the procedures established under 920 KAR 1:060 which provide for a Cabinet 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, which CHFS is required to establish and maintain to protect the rights and welfare of human subjects of research conducted or sponsored by CHFS. The project manager assigned by CHFS will provide all documentation and protocols for review and approval by CHFS Institutional Board. No research may begin until such time as the Board reviews and approves the project.

### **Scientific Misconduct**

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 50 and 900 KAR 1:080 as amended, and shall be made available, upon request, to the Cabinet for Health and Family Services. The Contractor shall immediately report to CHFS any activity reported to the Contractor under these terms and conditions. Notice shall be sent in writing to the Department.

### **Intellectual Property**

The Contractor agrees that any formulae, methodology, other reports and compilations of data provided by BGADD and/or CHFS to the Contractor for the purposes of meeting the terms and conditions of this Contract shall be the exclusive property of the Cabinet, unless the specific ownership of any proposed or developed formulae, methodology or data compilation analyses is otherwise identified in any Attachment(s). The Contractor further agrees that any formulae, methodology, other reports and compilations of data prepared or produced by the Contractor during the course of work pursuant to this Contract shall be made available to CHFS for the Cabinet's use upon request and without charge. Any use of these material, formulae, methodology, other reports, and compilations of data other than for the purposes of meeting the terms and conditions of this Contract must be reviewed and approved in advance by CHFS.

If any of these materials are included in any publication, training materials or presentations, or for any other type of release of this material other than for the purposes of meeting the terms and conditions of this Contract, appropriate credit for the funding source must be given. This provision shall be included in any subcontract, including contracting for staff, issued by the Contractor under this Contract.

Any proposed project under the scope of work for any of the Projects set forth under the Summary Line Item Section in this Contract shall include specific documentation and justification for titles of ownership as:

Patents;

Trademarks as proposed or registered with the U. S. Patent and Trademark Office; or

Copyrights proposed or certified with the Library of Congress, U.S. Copyright Office.

### **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; or

Upon less than thirty (30) calendar days notice to the Contractor, upon written determination of the Secretary of the Finance and Administration Cabinet, or his designee, for convenience of the Commonwealth.

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

### **Turnover Assistance**

Upon receipt of notice of termination of the Contract from BGADD, the Second Party 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 vendor or to perform the work by itself.

### **Remedies for Breach**

It is agreed by the Parties that in the event of breach of contract by the Contractor, BGADD may pursue any remedy available to it pursuant to this Contract, or to the provisions of KRS Chapter 45A, or any remedy that is available to it by law. The remedies available to BGADD 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 by the Contractor to BGADD for noncompliance as provided for in this Contract.



### **Clean Air Act and Federal Water Pollution Control Act**

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.

### **Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion, Lower Tier Covered Transactions**

The Contractor shall be compliant with 2 CFR 180 at the time of award and throughout the Contract period.

### **Licensure, Certification, and Registration**

The Contractor shall:

Ensure that each employee under contract or in its employ obtains and maintains all appropriate licenses, registrations, and/or certifications (at all times) necessary to the extent such are required for performance under this Contract;

Ensure that it has readily accessible copies of licenses, registration and/or certifications necessary for each employee under contract or in its employ; and

Produce copies of any employee's license, registration and/or certification at the request of BGADD and/or CHFS or the Cabinet's designee.

### **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.

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. Additional local registration or license may be required.

The Contractor shall pay any sales, use, and personal property taxes arising out of this Contract and the transaction contemplated hereby. Any other taxes levied upon this Contract, the transaction, or the equipment or services delivered pursuant hereto shall be borne by the Contractor.

### **Purchasing and Specifications**

The Contractor certifies that he will not attempt in any manner to influence any specifications to be restrictive in any way or respect nor will he attempt in any way to influence any purchasing of services, commodities or equipment by the BGADD/AAAIL. For the purpose of this paragraph and the following paragraph that pertains to conflict-of interest laws and principles, "he" is construed to mean "they" if more than one person is involved and if a firm, partnership, corporation, or other organization is involved, then "he" is construed to mean any person with an interest therein.

### **Conflict of Interest Laws and Principles**

The Contractor certifies that the Second Party is legally entitled to enter into this Contract with the BGADD/AAAIL, and by holding and performing this Contract will not be violating either any conflict of interest statute, KRS 45A.330-45A.340, 45A.990, KRS 164.390, or KRS 11A.040 of the Executive Branch Code of Ethics, relating to the employment of former public servants.

### **Campaign Finance**

The Contractor certifies that neither he/she nor any member of his/her immediate family having an interest of ten percent (10%) or more in any business entity involved in the performance of this Contract, has contributed more than the amount specified in KRS 121.056 (2), to the campaign of the gubernatorial candidate elected at the election last preceding the date of this Contract. The Contractor further swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the company which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the company which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

### **Legal Proceedings**

Except as specifically disclosed in writing to BGADD/AAAIL by the Contractor, prior to the date of this Contract, Contractor certifies there are no suits, investigations, or other proceedings pending or threatened against Contractor or any subcontractor which would have a material effect on Contractor's ability to perform under this Contract, or

on any Subcontractors ability to perform under their respective subcontracts, if applicable. Further, the Contractor shall use its best efforts to notify BGADD within one (1) business day, and in writing within three (3) business days, of all suits, investigations, or other proceedings involving Contractor related to this Contract. The Contractor shall send written notice to the Bluegrass Area Development, 699 Perimeter Drive, Lexington, KY a 40517

**Certification of Lobbying Activities**

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:

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 the Bluegrass ADD, 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.

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 the Bluegrass ADD, 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.

The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients 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 and not more than \$100,000 for each such failure.

**Discrimination Prohibited in Service Provision (Because of Race, Religion, Color, National Origin, Sex, Age, Disability, Political Beliefs or Reprisal or Retaliation for prior Civil Rights Activity or other Federal, State or Local Protected Class)**

During the performance of this contract, the Second Party shall:

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. The Contractor agrees to comply with the provisions of the Kentucky Civil Rights Act, the Americans with Disabilities Act as Amended (ADAA), 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 and all other applicable federal, state and local regulations relating to prohibiting discrimination.

The Contractor will take action to ensure that service applicants and recipients are given services in the same manner, based on eligibility, and are not, based on membership in a protected class: denied aid, care, services, or other benefits provided under this Contract; subjected to segregation or different treatment in any matter related to receipt of assistance; restricted in any way in the enjoyment of any advantages or privileges enjoyed by others receiving similar services; given different treatment in determining eligibility or meeting other requirements or conditions that must be met to receive benefits.

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.

In all program or service solicitations or advertisements placed by or on behalf of the Contractor, 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.

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.

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.

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 for 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).

#### **Certification Regarding Drug Free Workplace**

The Contractor hereby certifies that it will, or will continue to, provide a drug free workplace in accordance with 2 CFR part 182. The Contractor shall at a minimum:

Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited from the Second Party's workplace and specifying actions that will be taken against employees for violation of such prohibition;

Establish an ongoing drug free awareness program to inform employees about:

- The dangers of drug abuse in the workplace;
- The Contractor's policy of maintaining a drug free workplace;
- Available drug counseling, rehabilitation and employee assistance programs; and
- The penalties that may be imposed upon employees for drug abuse violation.

#### **Records Checks**

A current and satisfactory criminal record check that is satisfactory with no convictions or outstanding charges which would constitute a disqualifying offense under 900 KAR 1:1009. A criminal record check shall be completed through the Kentucky State Police

Information Center or the Administrative Office of the Courts. If an individual providing services under the contract has resided or worked in a state other than Kentucky a satisfactory records check shall be required of those states as well.

### **Confidential Information**

The Contractor shall comply with the state and federal rules and regulations governing access to and use of information and data provided by BGADD and/or CHFS or collected by the Contractor, and will use such information or data only for those purposes expressly delineated, defined and authorized in this Contract. The provisions of the Privacy Act of 1974, 5 U.S.C. 552a. The Contractor shall instruct its employees to use the same degree of care as it uses with its own data to keep confidential information concerning client data, the business of the BGADD, its financial affairs, its relations with its citizens and its employees, as well as any other information that may be specifically classified as confidential by the BGADD in writing to the Contractor. The Contractor agrees to ensure that all confidential information and data shall remain confidential. The Contractor shall have an appropriate agreement 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 aging department 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.

The Contractor shall permit unrestricted access on demand to personnel of the BGADD, CHFS, the Office of the Attorney General, the Office of the Auditor of Public Accounts, and any representative of a government funding Bluegrass ADD authorized to review records for audit or investigation purposes to its current policies and procedures for ensuring 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 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.

### **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).

### **Reduction in Contract Worker Hours (if applicable)**

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority, the Bluegrass ADD is required by Executive Order, Administrative Regulation, or otherwise to reduce contract hours, the contract will be reduced by the amount specified in that document.

### **No Grant of Employment or Bluegrass ADD**

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 an employee of BGADD or CHFS, 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 of the Contractor.

In no event, shall any employee of the Contractor be deemed to be a third-party beneficiary of this Contract or an agent or an employee of the Commonwealth.

### **Staffing Services**

Notwithstanding any other provision of this Contract to the contrary, for any and all staffing or personnel services provided pursuant to this Contract, the Contractor expressly agrees to, and hereby acknowledges, the following:

1. 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.

2. 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, Worker's 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 of the Contractor or deemed to be an independent contractor of the Contractor.
3. Any individual providing services under this Contract shall, at all times, be adequately trained and qualified to perform the services required herein.
4. Any individual providing services under this Contract shall, at all times, be legally and adequately certified or licensed within the Commonwealth of Kentucky to perform the services required herein and shall be in good standing with any necessary certification or licensure authority. At no time shall any such individual be under investigation, under suspension, under a condition of practice, or under a limitation on the scope of practice from any necessary certification or licensing authority. In the event of any such restriction, the Contractor shall immediately notify BGADD of the restriction.
5. Upon request, the Contractor shall provide BGADD with any documentation that BGADD believes is necessary to establish compliance with the requirements of this provision.
6. Any individual providing services under this Contract must not have a conviction for, or have any charges currently pending for, any criminal offense that would constitute either a felony or a misdemeanor offense in the jurisdiction in which the criminal offense occurred or is alleged to have occurred. In the event of any such charge or conviction, the Contractor shall immediately notify BGADD of the charge or conviction.
7. 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.



8. 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.
9. Prior to any staff of the Contractor performing services under the Contract, BGADD must approve such staff and authorize them to perform the required services. Specifically, in all cases, the Contractor shall present potential staff, along with documentation of all required credentials and other requested information, to the appropriate BGADD individuals for review and approval. BGADD expressly reserves the right to disapprove of, disqualify, or reject any staff provided by the Contractor to provide services under this Contract, for any reason. In such event, the Contractor shall present additional potential staff to perform the services, for review and approval by BGADD.
10. BGADD expressly reserves the right to immediately disqualify or prohibit the continued use of any staff of the Contractor that has been provided to perform services under the Contract, if, in the discretion of BGADD, it is determined that the continued use of such staff is not in the best interests of BGADD, that such staff fails to meet any of the requirements imposed by the Contract, or that such staff of the Contractor has violated any state or federal law or violated any policies and procedures of BGADD. In such event, the Contractor shall immediately discontinue the use of such staff to perform services under the Contract and shall thereafter present additional potential staff to perform the services, for review and approval by BGADD.
11. Any decision whether or not to fill any staffing vacancies, any decision to provide space in any required facility orientation, any decision to contact or request staffing services from the Contractor, and any decision whether or not to use this Contract to fill any staffing vacancies shall rest entirely and exclusively in the discretion of BGADD. Under no circumstances is the Contractor guaranteed any work under this Contract; the Contractor is merely an authorized provider of the services detailed herein. BGADD hereby reserves the right to contract with any other vendor, to perform the services described in this contract.
12. In the event that multiple contracts are awarded for provision of the services detailed herein, BGADD is authorized, in its sole discretion, to contact or request

services from any vendor and shall not be required to contact vendors in any particular order with regard to performing any services detailed herein.


13. In no event shall any employee or independent contractor of the Contractor be deemed to be a third-party beneficiary of this contract.
14. Each of the provisions within this section is specifically subject to the general indemnification provisions of this contract.

Master Contract  
Buyer Name: Bluegrass Area Agency on Aging  
July 1, 2018 – June 30, 2019

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**FIRST PARTY:**

**BLUEGRASS AREA DEVELOPMENT DISTRICT**

  
\_\_\_\_\_  
Celeste Collins, Director of Aging

**SECOND PARTY:**

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

  
\_\_\_\_\_  
(Authorized Signature)

**MAYOR JIM GRAY**  
(Typed Name and Title)

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 '19 as set forth on the Service Delivery/Budget Back page hereto attached.
3. Submit monthly expenditure reports no later than the **10th of every month beginning August 10th** on the form(s) prescribed by the Bluegrass ADD. **Must match units reported in State Database System (SAMS).**
4. **Enter all service units into the SAMS system by the 5th of the month.**
5. **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.**
6. 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**  
**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, KY 40502

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

Lexington-Fayette Urban County Government  
Organization Name

Lexington Senior Citizens Center  
Award Number or Project Name

Jim Gray, Mayor  
Name and Title of Authorized Representative

Signature

06/28/2018

Date

## INSTRUCTIONS FOR CERTIFICATION

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).