

STATE OF CALIFORNIA
STANDARD AGREEMENT

STD 213 (Rev 06/03)

AGREEMENT NUMBER TV-0405-08
REGISTRATION NUMBER



- This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME California Department of Aging
CONTRACTOR'S NAME County of San Mateo
- The term of this Agreement is: July 1, 2004 through June 30, 2005
- The maximum amount of this Agreement is: \$ 164,086.00
One hundred sixty-four thousand, eighty-six dollars
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	4 page(s)
Exhibit B – Budget Detail and Payment Provisions	10 page(s)
Exhibit C* – General Terms and Conditions	
Check mark one item below as Exhibit D:	
<input checked="" type="checkbox"/> Exhibit - D Special Terms and Conditions	23 page(s)
<input type="checkbox"/> Exhibit - D* Special Terms and Conditions	
Exhibit E – Additional Provisions	4 page(s)

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

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

CONTRACTOR		California Department of General Services Use Only
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) County of San Mateo		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Mark Church, President, Board of Supervisors		
ADDRESS 225 West 37 th Avenue, Room 140, San Mateo, California 94403		
STATE OF CALIFORNIA		
AGENCY NAME California Department of Aging		<input type="checkbox"/> Exempt per: Mello-Granlund Older Californians Act
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Rachel de la Cruz, Manager, Contracts and Business Services Section		
ADDRESS 1600 K Street, Sacramento, California 95814		

Budget Detail, Payment Provisions, and Closeout - Exhibit B
Title V

ARTICLE I. FUNDS

A. Expenditure of Funds

1. The Contractor shall expend all funds received hereunder in accordance with this Agreement.
2. Any reimbursement for authorized travel and per diem shall be at rates not to exceed those amounts paid by the State in accordance with Department of Personnel Administration's rules and regulations. This is not to be construed as limiting the Contractor from paying any differences in costs from funds other than those provided by this Department, between the Department of Personnel Administration rates and any rates the Contractor is obligated to pay under other contractual agreements. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State. (California Code of Regulations (CCR), Title 2, Section 599.615 et seq.)
3. The Department reserves the right to refuse payment to the Contractor or later disallow costs for any expenditure, as determined by the Department not to be in compliance with this Agreement, unrelated or inappropriate to contract activities, or when inadequate supporting documentation is presented, or where prior approval was required but was either not requested or not granted.

B. Accountability for Funds

The Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from those for any other funds administered by the Contractor, and shall be maintained in accordance with Generally Accepted Accounting Principles and Procedures.

C. Unexpended Funds

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

D. Availability of Funds

1. It is understood between the parties that this Agreement may have been written before ascertaining the availability of appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if this Agreement were executed after that determination was made.

Budget Detail, Payment Provisions, and Closeout - Exhibit B
Title V

ARTICLE I. FUNDS (Continued)

2. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government and the Budget Act of the appropriate fiscal years for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions imposed by the Congress or the Legislature or the Executive Branch of State Government that may affect the provisions, terms, or funding of this Agreement in any manner.

3. Limitation of State Liability

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

4. Funding Reduction(s)

a. If funding for any State fiscal year is reduced or deleted by the Legislature, Congress, or Executive Branch of State Government for the purposes of this program, the State shall have the option to either:

- Terminate the Contractor pursuant to Exhibit D, Article XII, A.
- Offer a contract amendment to the Contractor to reflect the reduced funding for this contract.

b. In the event that State elects to offer an amendment, it shall be mutually understood by both parties that (1) the State reserves the right to determine which contracts, if any, under this program shall be reduced and (2) some contracts may be reduced by a greater amount than others, and (3) that the State shall determine at its sole discretion the amount that any or all of the contracts shall be reduced for the fiscal year.

E. Interest Earned

Nonprofit entities shall maintain advances of federal funds in interest bearing accounts, unless (1), (2), or (3) apply.

- (1) The recipient receives less than \$120,000 in federal awards per year.
- (2) The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on federal cash balances.

Budget Detail, Payment Provisions, and Closeout - Exhibit B
Title V

ARTICLE I. FUNDS (Continued)

- (3) The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.

For nonprofit entities interest earned in excess of \$250 on federal advances deposited in interest bearing accounts shall be remitted annually to the Department.

F. Program Income

1. Program income is income earned by the contractor during the contract period that is directly generated by an allowable activity supported by contract funds or earned as a result of the award of contract funds.
2. Program income includes income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced with contract funds.
3. Costs of generating program income may be deducted from gross income to determine program income earned provided these costs are not charged to contract funds.
4. Program income must be added to contract funds and matching contributions, and used for allowable costs of the program.
5. Contractors that continue to receive contract funds may use unexpended program income in the subsequent contract period.
6. Contractors that do not continue to receive contract funds in the subsequent period must remit unexpended program income earned to the Department after the end of the contract period.

G. Matching Contributions

1. Matching means the value of third-party in-kind contributions and that portion of program and administrative costs funded (cash or in-kind) by the contractor, subcontractor, or other local resources.
2. Third party in-kind contributions are property or services provided which benefit a contract-supported project or program and which are contributed by non-federal third parties without charge to the contractor or subcontractor.
3. Third party in-kind contributions count towards satisfying a matching requirement only where the payments would be otherwise allowable costs if the party receiving the contributions were to pay for the costs.

Budget Detail, Payment Provisions, and Closeout - Exhibit B
Title V

ARTICLE I. FUNDS (Continued)

4. Third party in-kind contributions must be necessary for the proper and efficient accomplishment of Area Plan administration and program activities.
5. Costs incurred by the contractor or subcontractor must be verifiable from the records of the contractor and subcontractor.
6. Costs must be allowable as outlined in Office of Management and Budget (OMB) circulars and may be cash or in-kind contributions.
7. Other local resources include cash donations (not including program income) and cash generated from fundraising activities.
8. The Contractor is not required to provide matching contributions as a condition of funding.
9. The Contractor may not require a subcontractor to provide matching contributions as a condition of funding.

ARTICLE II. BUDGET AND BUDGET REVISIONS

- A. A Title V Senior Community Service Employment Program (SCSEP) Application, Budget (CDA 35), and Budget Narrative must be submitted, in accordance with the annual Application and Budget Instruction Package, as issued by the Department, before the start up of each fiscal year and in accordance with Section 4031 – 4036 of the Title V SCSEP Program Manual. The Budget and Budget Narrative must correlate with Title V SCSEP activities and functions, stipulated within the annual Title V SCSEP Application.
- B. Any matching contributions generated as a result of this contract should be reported on the CDA 35 as Federal Match.
- C. Each Title V SCSEP contractor is required to submit a budget revision if spending exceeds or is below 10 percent of each cost category. Budget revisions may be submitted as necessary, but no later than May 1 of each fiscal year. The Department will not accept any budget revision beyond May 1 or after the contract period has expired.

ARTICLE III. PAYMENT

- A. The Contractor shall prepare and submit by the 15th of each month to the AAA-Based Team, in electronic format, a Monthly Expenditure Report/Request for Funds (CDA 29), unless otherwise specified by the Department.

Budget Detail, Payment Provisions, and Closeout - Exhibit B
Title V

ARTICLE III. PAYMENT (Continued)

- B. During the contract period, the Department shall advance funds based on an analysis of current cash needs.

- C. The Contractor shall meet the following standards for its financial management systems, as stipulated in federal regulations:
 - 1. Financial Reporting
 - 2. Accounting Records
 - 3. Internal Control
 - 4. Budgetary Control
 - 5. Allowable Costs
 - 6. Source Documentation
 - 7. Cash Management

ARTICLE IV. CLOSEOUT

The Financial Closeout Report (CDA 90) shall be submitted annually, to the AAA-Based Team, within (60) calendar days following the end of the fiscal year, or within (30) days following termination prior to the end of the contract period, unless otherwise specified by the Department.

Scope of Work- Exhibit A
Title V - Contracted

ARTICLE I. DEFINITIONS

- A. **Title V Senior Community Service Employment Program (SCSEP)** means a program that serves low-income persons who are 55 years of age and older and who have poor employment prospects by placing them in part-time community service positions and by assisting them to transition to unsubsidized employment. [Older Americans Act (OAA), 20 CFR Part 641]
- B. **Participant** means an individual who is eligible for the Title V SCSEP, has been enrolled, and is receiving services.
- C. **Participant Position** means an authorized training slot whose unit cost includes administration, participant wage and fringe benefits, and other participant costs. The number of participant slots and the amount of funding available for a given Fiscal Year is based on an equitable distribution ratio determined by the U. S. Census and allocated by the U. S. Department of Labor.
- D. **Low Income** means family income not more than 125 percent of the federal poverty guidelines.
- E. **Eligible Service Population** means unemployed low-income California residents who are 55 years of age or older and who have poor employment prospects. Preference must be given to Veterans and qualified spouses at least 60 years old; Other individuals at least 60 years old; Veterans and qualified spouses aged 55 to 59; and Other individuals aged 55-59. [OAA, 20 CFR Part 641 and 29 CFR Part 89) and Jobs for Veterans Act (Public Law 107-288]
- F. **Host Agency** means a public agency or private non-profit 501(c)(3) organization that provides a training work site and supervision for a participant position.
- G. **Community-Service-Job Training Option** means placing participants at host agencies that have occupations which are similar to "in demand" private sector jobs. May be supplemented by general or specialized skills training and a participant must have an Individual Employment Plan that details skills to be attained and timelines for achieving the goal.
- H. **On-The-Job-Experience (OJE) Training Option** means developing an unsubsidized job that requires skills not attainable through an active host agency. After at least two weeks at a community service assignment, a participant may be placed in an assignment of up to no more than 40 hours per week for up to twelve weeks. The entity can be public, private, or a for-profit organization. The program may reimburse up to 100 percent of the employer's paid wage that will not last more than four weeks and up to 50 percent for assignments that exceed four weeks but last no more than 12 weeks. The Department must approve assignments before the contractor exercises an OJE option.

Scope of Work- Exhibit A
Title V - Contracted

ARTICLE I. DEFINITIONS (Continued)

- I. **Satisfaction Survey** means an instrument that gathers the satisfaction of participants, employers, and their host agencies with their experiences and the services provided. [20 CFR 641.700 and 710(6)(7)(8)]

ARTICLE II. SCOPE OF WORK

- A. The Contractor shall perform the following:
 1. Enter into contracts with subcontractors to operate the Title V SCSEP.
 2. Implement statutory provisions of the Title V SCSEP in accordance with all applicable laws and regulations [OAA, 20 CFR Part 641, and 29 CFR Part 89; Workforce Investment Act (WIA), Regulations section 121(b)(1)(B)(vi) and 20 CFR Part 652 and Parts 660-671; The Jobs for Veterans Act (Public Law 107-288); and the Title V SCSEP Manual as issued by the Department.
 3. Review, approve, and monitor subcontractor budgets and expenditures and any subsequent amendments and revisions to budgets.
 4. Annually monitor, evaluate, and document subcontractor performance and compliance with this Agreement.
 5. Collect, review, and approve subcontractor financial reports as required by the Department.
 6. Collect, review for accuracy, approve and submit the subcontractor's Quarterly Progress Reports (QPR) as required by the Department.
 7. Maintain a program data collection and reporting system as required by the Department.
 8. Provide support and technical assistance to the subcontractor and respond in writing to all written requests for direction, guidance, and interpretation of instructions.
 9. Distribute and maintain an up-to-date program manual specific to the program covered by this Exhibit so that all responsible persons have ready access to standards, policies, and procedures.
 10. Provide information and referral specific to the program covered by this Exhibit so that the public may have access to the program's services.

Scope of Work- Exhibit A
Title V - Contracted

ARTICLE II. SCOPE OF WORK (Continued)

11. Ensure all applicable provisions required within this Agreement are included in any subcontract entered into by the Contractor to carry out the terms of this Agreement.
- B. Performance of the Subcontractor. The Contractor shall include the following provisions in all agreements with subcontractors:
1. Operate the Title V SCSEP which provides useful part-time training opportunities, in community service assignments, and assists participants in obtaining unsubsidized employment.
 2. Implement statutory provisions of the Title V SCSEP in accordance with applicable laws and regulations [OAA, 20 CFR Part 641, and 29 CFR Part 89; WIA regulations section 121(b)(1)(B)(vi) and 20 CFR Part 652 and Parts 660-671; Jobs for Veterans Act (Public Law 107-288); and the Title V SCSEP Manual as issued by the Department.
 3. The subcontractor shall serve 140 percent of the number of allocated participant slots in the contract year. This level of performance shall not be unilaterally reduced or otherwise changed without written prior approval of the Department.
 4. Recruit, select, and process eligible participants. Provide orientation, assessment, and training to all participants. Assist participants in seeking unsubsidized employment and ensure that at least 25 percent of the participants secure unsubsidized employment.
 5. Provide an Individual Employment Plan (IEP) for each participant based on an assessment that considers the individual's preference of occupational category, work history, skills, interests, talents, physical capabilities, need for supportive services, aptitudes, potential for performing proposed community service assignment duties, and potential for transition to unsubsidized employment. IEPs shall be developed in partnership with each participant and will reflect the needs as well as the expressed interests and desires of the participant. IEPs shall be updated as necessary but no less than every six months.
 6. Provide or arrange for training for participants through lectures, seminars, classroom instruction, individual instruction, or other arrangements consistent with the participant's IEP.

Scope of Work- Exhibit A
Title V - Contracted

ARTICLE II. SCOPE OF WORK (Continued)

7. Follow-up with participants placed into unsubsidized employment during the first six months of placement to make certain that participants receive any follow-up services they may need to ensure successful placements.
8. Follow-up at six months with participants who are placed in unsubsidized employment to determine whether they are still employed [OAA Section 513(c)(2)(B)].
9. Obtain and record the personal information necessary for a proper determination of eligibility for all participants and maintain documentation supporting their eligibility. The income of each participant shall be recertified once every 12 months. All documents shall be maintained in a confidential manner.
10. Cooperate with community, employment, and training agencies, including agencies under the WIA and through the One-Stop Career Centers, to provide services to low-income older workers.
11. As a mandated partner under the WIA, the Title V SCSEP must have a signed Memorandum of Understanding with the Local Workforce Investment Board(s) and One-Stop Career Center(s) detailing how services will be provided. [WIA Sections 662.200-300]
12. Maintain an up-to-date Title V SCSEP Manual with related departmental requirements so that all responsible persons have ready access to standards, policies, and procedures.



BUDGET SUMMARY

BUDGET PERIOD:	<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> AMENDMENT NO.:	CONTRACT NO.: TV 0405-08	# OF SLOTS: 19	DATE: 5/14/04	PSA NO.: 08
----------------	--	--------------------------	----------------	---------------	-------------

COST CATEGORIES	ADMINISTRATION		PROGRAM/PWFB				TOTAL				
	(a) Federal	(b) Federal Match	(c) Federal	(d) State	(e) Federal Match	(f) Program Income	(g) Federal	(h) State	(i) Federal Match	(j) Program Income	(k) Total
PERSONNEL COSTS											
Personnel	3,281	1,675	86,920	36,245			90,201	36,245	1,675	0	128,121
Trial Employment							0	0	0	0	0
Fringe Benefits	774		14,074				14,848		0	0	14,848
Total Personnel Costs	4,055	1,675	100,994	36,245	0	0	105,049	36,245	1,675	0	142,969
OPERATING COSTS											
			PROGRAM/OTHER								
On-The-Job Experience							0	0	0	0	0
Travel	100		300				400		0	0	400
Equipment							0		0	0	0
Supplies	44						44		0	0	44
Contractual							0		0	0	0
Orientation					2,729		0		2,729	0	2,729
Assessment			1,399		1,330		1,399		1,330	0	2,729
Training			3,313				3,313		0	0	3,313
Supportive Service							0		0	0	0
Job Development			9,177		20,000		9,177		20,000	0	29,177
Transportation			500				500		0	0	500
Other	6,028		1,931				7,959		0	0	7,959
Total Operating Costs	6,172	0	16,620	0	24,059	0	22,792	0	24,059	0	46,851
Indirect Costs						33,244	0		33,244	0	33,244
Total Operating and Indirect Costs	6,172	0	16,620	0	57,303	0	22,792	0	57,303	0	80,095
TOTAL COSTS	10,227	1,675	117,614	36,245	57,303	0	127,841	36,245	58,978	0	223,064

SECTION B	SECTION C
	Federal Compliance Check
TOTAL ADMINISTRATION	Administration (no more than 8%)
TOTAL PROGRAM/PWFB	PWFB (at least 79%)
TOTAL PROGRAM/OTHER	Federal Match (at least 10%)
TOTAL COSTS	%
	8%
	79%
	32%

FOR STATE USE ONLY

Fiscal Specialist Approval	Date	Team Coach Verification	Date
	5/26/04		5-26-04

ADMINISTRATION BUDGET NARRATIVE

BUDGET PERIOD:	<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> AMENDMENT NO.:	CONTRACT NO.: TV 0405-08	# OF SLOTS: 19	DATE: 5/14/04	PSA NO.: 08
----------------	--	--------------------------	----------------	---------------	-------------

SECTION A PERSONNEL COSTS

Position Classification:	(a) Annual Wage Rate	(b) % of Time Devoted	(c) Total
Director	70,803	7%	4,956
TOTAL PERSONNEL			4,956
FRINGE BENEFITS			774
TOTAL PERSONNEL COSTS			5,730

SECTION B OPERATING COSTS

	Quantity	Unit Price	Total
Travel			100
Equipment (List):			
Supplies			44
Contractual			
Other (List):			
Audit			843
Bookkeeping			1,584
Phone			690
Postage			536
Insurance			2,375
TOTAL OPERATING COSTS			6,172
INDIRECT COSTS			
TOTAL COSTS - ADMINISTRATION			11,902

PROGRAM/PARTICIPANT WAGES AND FRINGE BENEFITS (PWFB)

BUDGET PERIOD:	[X] ORIGINAL [] AMENDMENT NO.:	CONTRACT NO.: TV 0405-08	# OF SLOTS: 19	DATE: 5/14/04	PSA NO.: 08
----------------	-----------------------------------	--------------------------	----------------	---------------	-------------

SECTION A PERSONNEL

Participant Classification	(a) Number of Participants	(b) Wage per Hour	(c) Average Work Week Hours	(d) Average Number of Weeks	(e) Total
Participant	15	\$6.75	22	51	113,603
Participant	1	\$7.50	25	51	9,563
TOTAL PERSONNEL					123,165

SECTION B TRIAL EMPLOYMENT

Participant Classification	Number of Participants	Wage per Hour	Average Work Week Hours	Average Number of Weeks	Total
TOTAL TRIAL EMPLOYMENT					0

SECTION C FRINGE BENEFITS

CATEGORIES	Number of Participants	Total
Physicals		200
FICA		9,422
Workers Compensation		4,452
Other:		
TOTAL FRINGE BENEFITS		14,074
TOTAL PERSONNEL COSTS - PROGRAM/PWFB		137,239

PROGRAM/OTHER

BUDGET PERIOD:	<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> AMENDMENT NO.:	CONTRACT NO.: TV 0405-08	# OF SLOTS: 19	DATE: 5/14/04	PSA NO.: 08
----------------	--	--------------------------	----------------	---------------	-------------

SECTION A ON-THE-JOB EXPERIENCE

Participant Classification	(a) Number of Participants	(b) Wage per Hour	(c) Average Work Week Hours	(d) Average Number of Weeks	(e) Total
TOTAL ON-THE-JOB EXPERIENCE					0

SECTION B OTHER OPERATING COSTS

	Staff Costs	Other	Total
Travel		300	300
Equipment			0
Supplies			0
Contractual			0
Orientation *	2,729		2,729
Assessment *	2,729		2,729
Training *	2,729	584	3,313
Supportive Services *			0
Job Development *	29,177		29,177
Transportation *		500	500
Other (List):			0
IT		1,368	1,368
Utilities, Maintenance		563	563
			0
TOTAL OTHER OPERATING COSTS			40,679
TOTAL OPERATING COSTS			40,679
INDIRECT COSTS			33,244
TOTAL OPERATING AND INDIRECT COSTS - PROGRAM/OTHER			73,923

* List Program Staff: (Optional)

State of California
California Department of Aging
CDA 276 (New 03/02)

Award#: TV 0405-8
Date: 1/20/2004
Amendment #: N/A
Date: N/A

TITLE V PLANNING ESTIMATE
FISCAL YEAR 2004/2005
COUNTY OF SAN MATEO

	PROGRAM		
	PREVIOUS BASELINE	REVISED TOTAL	NET CHANGE
FEDERAL FUND PROGRAMS:			
Federal Title V *	127,841	-	
502 (e) Funds		-	
Subtotal	127,841	-	
* Maximum of 8% allowed for Administration * Minimum of 79% for participant wages and fringe benefits			
TOTAL FEDERAL TITLE V	127,841	-	-
STATE FUNDS:			
State Funds **	36,245	-	
Subtotal	36,245	-	
** Participant Wages Only			
TOTAL STATE FUNDS	36,245	-	-
TOTAL PLANNING ESTIMATE	164,086	-	-

of Participant Slots 19 0

Please note minor change in format. First column reflects previous baseline, second column reflects revised total and third column reflects the net change for this amendment.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS

- A. The term "Agreement" or "Contract" shall mean the Standard Agreement, (Std. 213), all exhibits, the Budget, the project application, attachments and amendments, unless otherwise provided in this Article.
- B. In the event of any inconsistency between the articles, attachments, or provisions which constitute this contract, the following order of precedence shall apply:
1. Contract form, Standard Agreement, etc., and any amendments thereto;
 2. Scope of work;
 3. Special terms and conditions including Exhibit D;
 4. General terms and conditions, including Exhibit C; and
 5. All other attachments incorporated herein by reference.
- C. The Contractor shall comply with program memos and other guidance issued by the Department. In the event of conflict between the program memos and/or other Department guidance and the provisions in this Agreement, the provisions in this Agreement shall prevail.
- D. "State" and "Department," mean the State of California and the California Department of Aging (CDA) interchangeably.
- E. "Contractor" means the Area Agency on Aging to which funds are awarded under this Agreement and which is accountable to the State and/or federal government for use of these funds and is responsible for executing its provisions and services.
- F. "Subcontractor" means the legal entity that receives funds from the Contractor under this Agreement.
- G. "Reimbursable item" also means "allowable cost" and "compensable item."
- H. "CFR" means Code of Federal Regulations. "CCR" means California Code of Regulations. "GC" means Government Code. "W & I" means Welfare and Institutions Code. "USC" means United States Code. "PCC" means the Public Contract Code.
- I. "Program income" means revenue generated by the Contractor or subcontractor from contract-supported activities. Program income is:
1. Voluntary contributions received from a participant or responsible party as a result of the service.

Special Terms and Conditions - Exhibit D
Title V

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

2. Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement.
3. Royalties received on patents and copyrights from contract-supported activities.
4. Proceeds from the sale of items fabricated under a contract agreement.

ARTICLE II. ASSURANCES

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

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

- B.** The Contractor shall require language in all subcontracts to require all subcontractors to comply with all applicable State and federal laws.

C. Nondiscrimination

1. The Contractor shall comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VII of the Civil Rights Act of 1964 (42 USC 2000e et.seq), as amended by the Equal Opportunity Act of March 24, 1972 (Public Law 92-261), (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3) as amended, relating to confidentiality of alcohol and drug abuse patient

Special Terms and Conditions - Exhibit D
Title V

ARTICLE II. ASSURANCES (Continued)

records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 43601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to this Agreement.

2. **Equal Access to Federally-Funded Benefits, Programs and Activities (Title VI of the Civil Rights Act of 1964.)**

Contractor shall ensure compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d; 45 C.F.R. Part 80), which prohibits recipients of federal financial assistance from discriminating against persons based on race, color, religion, or national origin.

3. **Equal Access to State-Funded Benefits, Programs and Activities**

Contractor shall, unless exempted, ensure compliance with the requirements of Government Code sections 11135-11139.5, and Section 98000 et seq. of Title 22 of the California Code of Regulations, which prohibit recipients of state financial assistance from discriminating against persons based on race, national origin, ethnic group identification, religion, age, sex, color, or disability. (22 CCR 98323)

4. **Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. Sections 12101 et seq.). Contractor agrees to include this requirement in all contracts it enters into with subcontractors to provide services pursuant to this Agreement.**

D. **Standards of Work**

The Contractor agrees that the performance of work and services pursuant to the requirements of this Agreement shall conform to accepted professional standards.

E. **Conflict of Interest**

1. **The Contractor shall prevent employees, consultants, or members of governing bodies from using their positions for purposes including, but not limited to, the selection of subcontractors, that are, or give the appearance of being, motivated by a desire for private gain for**

Special Terms and Conditions - Exhibit D
Title V

ARTICLE II. ASSURANCES (Continued)

themselves or others, such as family, business, or other ties. In the event that the State determines that a conflict of interest exists, funds may be disallowed by the State and such conflict may constitute grounds for termination of the Agreement.

2. This provision shall not be construed to prohibit employment of persons with whom the Contractor's officers, agents, or employees have family, business, or other ties, so long as the employment of such persons does not result in a conflict of interest (real or apparent) or increased costs over those associated with the employment of any other equally qualified applicant, and such persons have successfully competed for employment with the other applicants on a merit basis.

F. Covenant Against Contingent Fees

1. The Contractor warrants that no person or selling agency has been employed or retained to solicit this Agreement. There has been no agreement to make commission payments in order to obtain this Agreement.
2. For breach or violation of this warranty, the State shall have the right to terminate this Agreement without liability or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingency fee.

G. Payroll Taxes and Deductions

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

H. Facility Construction or Repair

Funds from this Agreement are not allowed to be used for facility construction or repair.

I. Contracts in Excess of \$100,000

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

1. Clean Air Act, as amended (42 USC 1857).

Special Terms and Conditions - Exhibit D
Title V

ARTICLE II. ASSURANCES (Continued)

2. Clean Water Act, as amended (33 USC 1368).
3. Federal Water Pollution Control Act, as amended (33 USC 1251, et seq.).
4. Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738).

J. Debarment, Suspension, and Other Responsibility Matters

1. The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors:
 - a. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d. Have not within a three-year period preceding this Agreement had one or more public transactions (federal, State, or local) terminated for cause or default.
 - e. Contractor shall report immediately to the Department in writing any incidents of alleged fraud and/or abuse by either Contractor or Contractor's subcontractor. Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by the Department.
2. The Contractor agrees to timely execute any and all amendments to this Agreement or other required documentation relating to their subcontractors debarment/suspension status.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE II. ASSURANCES (Continued)

K. Agreement Authorization

1. If a public entity, the Contractor shall submit to the Department a copy of the resolution, order, or motion referencing this Agreement number authorizing execution of this Agreement. If a private nonprofit entity, the Contractor shall submit to the Department an authorization by the board of directors to execute this Agreement, referencing this Agreement number.
2. Documentation in the form of a resolution by the Governing Board of the Area Agency on Aging is required for the original and each subsequent amendment to this Agreement. This requirement may also be met by a single resolution from the Governing Board of the Contractor authorizing the Area Agency on Aging Director or designee to execute the original and all subsequent amendments to this Agreement.

L. Contractor's Staff

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

M. Corporate Status

1. The Contractor shall be a public or private nonprofit entity or Joint Powers Agreement (JPA). If a private nonprofit corporation or JPA, the Contractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
2. The Contractor shall ensure that any subcontractors providing services under this Agreement shall be of sound financial status. Any private, subcontracting corporation or JPA shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
3. Failure to maintain good standing by the contracting corporation or JPA shall result in suspension or termination of this Agreement with the Department until satisfactory status is restored. Failure to maintain good standing by a subcontracting corporation or JPA shall result in suspension or termination of the subcontract until satisfactory status is restored.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE II. ASSURANCES (Continued)

N. Lobbying Certification

The Contractor, by signing this Agreement, hereby certifies to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subgrants, and contracts under grants, loans, and cooperative agreements which exceed \$100,000) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by 31 USC 1352. 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.

ARTICLE III. AGREEMENT

A copy of this Agreement is on file and available for inspection at the California Department of Aging, 1600 K Street, Sacramento, California 95814.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE IV. COMMENCEMENT OF WORK

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

ARTICLE V. SUBCONTRACTS

- A. The Contractor shall satisfy, settle, and resolve all administrative, programmatic, and fiscal aspects of the program(s), including issues that arise out of any subcontracts, and shall not delegate or contract these responsibilities to any other entity. This includes, but is not limited to, disputes, claims, protests of award, or other manners of a contractual nature.
- B. In the event any subcontractor is utilized by the Contractor for any portion of this Agreement, the Contractor shall retain the prime responsibility for all the terms and conditions set forth, including but not limited to, the responsibility for preserving the State's copyrights and rights in data in accordance with Article XIX, of this exhibit, for handling property in accordance with Article VII of this exhibit, and ensuring the keeping of, access to, availability, and retention of records of subcontractors in accordance with Article VI of this exhibit.
- C. Funds for this Agreement shall not be obligated in subcontracts for services beyond the ending date of this Agreement, unless all funding under this Agreement is appropriated without regard for fiscal year, and the Department has agreed in writing to permit the specific expenditure for a specified period of time.
- D. The Contractor shall have no authority to contract for, or on behalf of, or incur obligations on behalf of the State.
- E. Copies of subcontracts, Memorandums and/or Letters of Understanding shall be on file with the Contractor and shall be made available for review at the request of the Department.
- F. The Contractor shall monitor the insurance requirements of its subcontractors in accordance with Article XI, Section E of this exhibit.
- G. The Contractor shall require all its subcontractors to indemnify, defend, and save harmless the Contractor, its officers, agents, and employees from any and all claims and losses accruing to or resulting from any subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with any activities performed for which funds from this Agreement were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the subcontractor in the performance of this Agreement.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE V. SUBCONTRACTS (Continued)

- H. The Contractor shall ensure that the subcontractor will complete all reporting and expenditure documents requested by the Department. These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by the Department.
- I. The Contractor shall require the subcontractor to maintain adequate staff to meet the subcontractor's Agreement with the Contractor. This staff shall be available to the State for training and meetings which the State may find necessary from time to time.
- J. If a private nonprofit corporation, the subcontractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.

ARTICLE VI. RECORDS

- A. The Contractor shall maintain complete records (which shall include, but not be limited to, accounting records, contracts, agreements, reconciliation of the "Financial Closeout Report" to the audited financial statements, a summary worksheet of results from the audit resolutions performed for all subcontractors with supporting documentation, letters of agreement, insurance documentation in accordance with this Article, Memorandums and/or Letters of Understanding, patient or client records, and electronic files) of its activities and expenditures hereunder in a form satisfactory to the State and shall make all records pertaining to this Agreement available for inspection and audit by the State or its duly authorized agents, at any time during normal business hours. All such records must be maintained and made available by the Contractor; (a) until an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by the Department's Audit Branch, (b) for such longer period, if any, as is required by applicable statute, by any other clause of this Agreement, or by Sections B, and C of this Article, and (c) for such longer period as the Department deems necessary.
- B. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for the same periods as specified in Section A above. The Contractor shall ensure that any resource directories and all client records remain the property of the Department upon termination of this Agreement, and are returned to the Department or transferred to another Contractor as instructed by the Department.
- C. In the event of any litigation, claim, negotiation, audit exception, or other action involving the records, all records relative to such action shall be maintained and made available until every action has been cleared to the satisfaction of the State and so stated in writing to the Contractor.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE VI. RECORDS (Continued)

- D. Adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures reimbursed by the State under this Agreement. If the allowability of expenditures cannot be determined because records or documentation of the Contractor are nonexistent or inadequate according to Generally Accepted Accounting Principles and Procedures, the expenditures will be questioned in the audit and may be disallowed by the State during the audit resolution process.
- E. After the authorized period has expired, confidential records shall be destroyed by shredding and disposed of in a manner that will maintain confidentiality.

ARTICLE VII. PROPERTY

- A. Unless otherwise provided for in this Article, property refers to all assets, capitalized or noncapitalized, used in operation of this Agreement. Property that is capitalized is referred to as property, plant, and equipment. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, and intangibles, etc. Property does not include consumable office supplies such as paper, pencils, typing ribbons, file folders, etc.
- B. Property meeting all of the following criteria are subject to the capitalization requirements. Such property must:
 - 1. Have a normal useful life of at least 1 year;
 - 2. Have a unit acquisition cost of at least \$5000 (e.g., four identical assets which cost \$3000 each, for a \$12,000 total would not meet this capitalization requirement); and
 - 3. Be used to conduct business under this Agreement.

As used in this Agreement, the term "equipment" shall refer only to capitalized property.

- C. Noncapitalized property are those items which do not meet all three requirements in this Article, Section B above.
- D. Additions, improvements, and betterments to assets meeting all of the conditions in Section B above must be capitalized. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments enhance the condition of an asset (e.g., extend life, increase service capacity, and lower operating costs). Examples of assets that might be

Special Terms and Conditions - Exhibit D
Title V

ARTICLE VII. PROPERTY (Continued)

improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.

- E. Intangibles are property which lack physical substance but give valuable rights to the owner and can be capitalized or noncapitalized. Examples of intangible property include patents, copyrights, leases, and computer software. By contrast, hardware consists of tangible equipment (e.g., computer printer, terminal, etc.).

Costs include all amounts incurred to acquire and to ready the intangible asset for its intended use. Typical intangible property costs include the purchase price, legal fees, and other costs incurred to obtain title to the asset.

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

1. Date acquired;
2. Property description (include model number);
3. Property identification number (serial number);
4. Cost or other basis of valuation;
5. Fund source; and
6. Rate of depreciation (or depreciation schedule), if applicable.

The Contractor shall keep track of property purchased with Contract funds, whether capitalized or not. The Contractor shall submit to the Department, annually with the Closeout, a current inventory of property furnished or purchased by the Contractor with funds awarded under the terms of this Agreement or any predecessor agreement for the same purpose. The Contractor shall maintain an annual inventory of property furnished or purchased by the subcontractor with funds awarded under the terms of this Agreement or any predecessor agreement for the same purpose. The Contractor shall use the Report of Project Property Furnished/Purchased with Agreement Funds (CDA 32) to report property to the Department.

- G. Prior to disposal of any property purchased by the Contractor or the subcontractor with funds from this Agreement, the Contractor must obtain approval from the Department regardless of the acquisition value. Disposition, which includes sale, trade-in, discarding, or transfer to another agency may not occur until approval is received from the Department. The Contractor shall use the Request to Dispose of Property (CDA 248) to dispose of property.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE VII. PROPERTY (Continued)

- H. The Contractor shall immediately investigate and within five (5) days fully document the loss, destruction, or theft of such property.
- I. The State reserves title to all State-purchased or financed property not fully consumed in the performance of this Agreement, unless otherwise required by federal law or regulations or as otherwise agreed by the parties.
- J. Contractor shall exercise due care in the use, maintenance, protection, and preservation of such property during the period of the project, and shall assume responsibility for replacement or repair of such property during the period of the project, until the Contractor has complied with all written instructions from the Department regarding the final disposition of the property.
- K. In the event of the Contractor's dissolution or upon termination of this Agreement, the Contractor shall provide a final property inventory to the State. The State reserves the right to require the Contractor to transfer such property to another entity, or to the State.
- L. To exercise the above right, no later than 120 days after termination of the Agreement or notification of the Contractor's dissolution the State will issue specific written disposition instructions to the Contractor.
- M. The Contractor shall use the property for the purpose for which it was intended under the Agreement. When no longer needed for that use, the Contractor shall use it, if needed, and with written approval of the State for other purposes in this order:
 - 1. Another Department program providing the same or similar service; or
 - 2. Another Department-funded program; or
 - 3. State/federally-funded program.
- N. The Contractor may share use of the property and equipment or allow use by other programs, upon written approval of the Department. As a condition of the approval, the Department may require reimbursement under this Agreement for its use.
- O. The Contractor or subcontractor shall not use equipment or supplies acquired under this Agreement with federal and/or State monies for personal gain or to usurp the competitive advantage of a privately-owned business entity.
- P. If purchase of equipment is a reimbursable item, the equipment to be purchased will be specified in the budget.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE VII. PROPERTY (Continued)

- Q. The Contractor shall include the provisions contained in this Article in all its subcontracts awarded under this Agreement.

ARTICLE VIII. ACCESS

The Contractor shall provide access to the federal or State agency, Bureau of State Audits, the Controller General of the United States, or any of their duly authorized federal or State representatives to any books, documents, papers, records, and electronic files of the Contractor or subcontractor which are directly pertinent to this specific Agreement for the purpose of audit, examination, excerpts, and transcriptions. The Contractor shall include this requirement in its subcontracts.

ARTICLE IX. MONITORING, ASSESSMENT, AND EVALUATION

- A. Authorized State representatives shall have the right to monitor, assess, and evaluate the Contractor's performance pursuant to this Agreement. Said monitoring, assessment, and evaluation may include, but is not limited to, audits, inspections of project premises, inspection of food preparation sites, and interviews of project staff and participants.
- B. The Contractor shall cooperate with the State in the monitoring, assessment, and evaluation processes, which include making any Administrative program and fiscal staff available during any scheduled process.

ARTICLE X. AUDITS

- A. The Contractor will arrange for an audit to be preformed as required by the Single Audit Act Amendments of 1996, Public Law 98-502, OMB Circular A-133, and a copy submitted to the:

California Department of Aging
Attn: Audit Branch
1600 K Street
Sacramento, California 95814

The copy shall be submitted within the earlier of 30 days after receipt of the auditor's report or nine months after the end of the fiscal period, unless a longer period is agreed to in advance by the cognizant or oversight agency of the audit.

Contractor will ensure that State-Funded expenditures shall be displayed discretely along with the related federal expenditures in the single audit report's "Schedule of Expenditures of Federal Awards" under the Catalog of Federal Domestic Assistance (CFDA) number 17.235.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE X. AUDITS (Continued)

- B. The Contractor shall ensure that all subcontractors expending \$500,000 or more in total federal funds have met the audit requirements of the OMB Circular A-133.
1. Ensure that appropriate corrective action has been taken to correct instances of noncompliance with federal laws and regulations. Corrective action shall be taken within six months after the Contractor receives the subcontractor's audit report;
 2. Consider whether subcontractor audits necessitate adjustment of the Contractor's own records; and
 3. Require each subcontractor to permit independent auditors to have access to the records and financial statements as necessary for the Contractor to comply with OMB Circular A-133.
 4. Subcontractors expending less than \$500,000 in total federal funds are exempt from federal audit requirements but records must be available for review.
- C. Ensuring that the requirements of the OMB Circular A-133 are met is generally interpreted to mean that the Contractor will ensure that the subcontractor's audit was:
1. Performed timely – not less frequently than annually and a report submitted timely. The audit is required to be completed not later than 9 months after the end of the subcontractor's fiscal year. The audit report is due to the Contractor not later than 30 days after the completion of the audit.
 2. Properly procured – use OMB Circular A-110 procurement standards; and provide maximum opportunities to small and minority audit firms.
 3. Performed in accordance with Government Auditing Standards – shall be performed by an independent audit and be organization-wide.
 4. All inclusive – includes an audit of the financial statements; an assessment of internal controls, including tests of transactions; and a determination of compliance with laws and regulations of all major federal programs and selected non-major program transactions.
 5. All audits shall be performed in accordance with and address all issues contained in any federal OMB Compliance Supplement that applies to this program.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE X. AUDITS (Continued)

- D. These requirements shall be included in subcontractor Agreements. Further, subcontractor shall be required to include in its contracts with the auditors selected by subcontractors, that the auditors will comply with all applicable audit requirements.
- E. The Contractor shall have the responsibility of resolving audits of its subcontractors. The Contractor shall prepare a summary worksheet of results from the audit resolutions performed for all subcontractors. The summary worksheet shall include, but not be limited to, contract amount; amount resolved; variances; whether an audit was relied upon or the Contractor performed an independent expense verification review of the subcontractor in making the determination; whether audit findings were issued, and if applicable date of management letter.
- F. If the subcontractor is not required to obtain an audit in accordance with Section C of this Article, the Contractor must determine whether the subcontractor expended the funds provided under this Agreement in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subcontractor or through other means (e.g., monitoring/expense verification reviews).

The Contractor shall prepare a summary worksheet of results from the audit resolutions performed for all subcontractors. The summary worksheet shall include, but not be limited to, contract amount; amount resolved; variances; whether an audit was relied upon or the Contractor performed an independent expense verification review of the subcontractor in making the determination; whether audit findings were issued, and if applicable date of management letter.

- G. The Department shall have access to all audit reports of Contractors and subcontractors and has the option to perform audits and/or additional work, as needed.
- H. Unless prohibited by law, the cost of audits made in accordance with provisions of the Single Audit Act Amendments of 1996, are allowable charges to Federal Awards. The costs may be considered a direct cost, or an allocated indirect cost, as determined in accordance with provisions of applicable OMB cost principle circulars. Contractor may not charge to Federal Awards the cost of any audit under the Single Audit Act Amendments of 1996, not conducted in accordance with the Act.
- I. Contractor may not charge to Federal Awards the cost of auditing a non-federal entity which has federal awards expended of less than \$500,000 per year, and is thereby exempted under OMB Circular A-133,

Special Terms and Conditions - Exhibit D
Title V

ARTICLE X. AUDITS (Continued)

Subsection.200(d) from having an audit conducted under the Act. Contractor may arrange for agreed upon procedures, the scope of which is less than that of an audit, to be performed by independent auditors on subcontractors not subject to OMB Circular A-133, for purposes of fiscal monitoring. The costs of such agreed upon procedures performed by an independent auditor may be charged to this Award as a cost of monitoring under Administration of the Area Plan.

- J. The Contractor assures the State that all subcontractors are audited as required by State requirements and federal law.
- K. The Contractor shall include in its contract with an independent auditor a clause permitting access by the State to the work papers of the independent auditor.
- L. Audits to be performed shall be, minimally, financial and compliance audits, and may include economy and efficiency and/or program results audits.
- M. The Contractor shall cooperate with and participate in any further audits which may be required by the State.
- N. The Contractor shall perform a reconciliation of the "Financial Closeout Report" to the audited financial statements. The reconciliation shall be maintained and made available for CDA review.

ARTICLE XI. INSURANCE

- A. Prior to commencement of any work under this Agreement, the Contractor shall provide for the term of this Agreement, the following insurance:

General liability of not less than \$1,000,000 per occurrence for bodily injury and property damage combined. Higher limits may be required by the Department in cases of higher than usual risks.

Automobile liability including non-owned auto liability, of not less than \$1,000,000 for volunteers and paid employees providing services supported by this Agreement.

If applicable, contractors and subcontractors shall comply with the Public Utilities Commission (PUC) General Order No. 115-F which requires higher levels of insurance for charter-party carriers of passengers and is based on seating capacity as follows:

Special Terms and Conditions - Exhibit D
Title V

ARTICLE XI. INSURANCE (Continued)

\$750,000 if seating capacity is under 8
\$1,500,000 if seating capacity is 8 – 15
\$5,000,000 if seating capacity is over 15

unless otherwise amended by future regulation.

- B. The insurance will be obtained from an insurance company acceptable to the Department of General Services, Office of Risk and Insurance Management, or be provided through partial or total self-insurance acceptable to the Department of General Services.
- C. Evidence of insurance shall be in a form and content acceptable to the Department of General Services, Office of Risk and Insurance Management. Insurance obtained through commercial carriers shall meet the following requirements:
1. The Certificate of Insurance shall provide that the insurer will not cancel the insured's coverage without thirty (30) days prior written notice to the State, or ten (10) days written notice if the reason for cancellation is for non-payment of insurance premium.
 2. The Certificate of Insurance shall provide the statement: "The Department of Aging, State of California, its officers, agents, employees, and servants are included as additional insureds, with respect to work performed for the State of California under this Agreement." Professional liability coverage is exempt from this requirement.
 3. The Department shall be named the certificate holder and the address must be listed on the certificate.
- D. The insurance provided herein shall be in effect at all times during the term of this Agreement. In the event the insurance coverage expires during the term of this Agreement, the Contractor agrees to provide the Department, at least thirty (30) days prior to the expiration date, a new certificate of insurance evidencing insurance coverage as provided herein for a period not less than the remaining Agreement term or for a period not less than one (1) year. In the event the Contractor fails to keep in effect at all times said insurance coverage, the Department may, in addition to any other remedies it may have, terminate this Agreement.
- E. The Contractor shall require its subcontractors under this Agreement, other than units of local government which are similarly self-insured, to maintain adequate insurance coverage for general liability, worker's compensation liabilities, and if appropriate, auto liability including non-owned auto and

Special Terms and Conditions - Exhibit D
Title V

ARTICLE XI. INSURANCE (Continued)

professional liability, and further, the Contractor shall require all of its subcontractors to hold the Contractor harmless. The subcontractor's Certificate of Insurance shall also name the Contractor, not the State, as the certificate holder and additional insured. The Contractor shall maintain certificates of insurance for all its subcontractors.

- F. A copy of each appropriate Certificate of Insurance referencing this Agreement Number, or letter of self-insurance, shall be submitted to the Department with this Agreement.
- G. The Contractor shall be insured against liability for Worker's Compensation or undertake self-insurance in accordance with the provisions of the Labor Code and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement (Labor Code Section 3700).
- H. The entity providing Ombudsman services must be insured or self-insured for professional liability covering all Ombudsman activities including, but not limited to, investigation of patient complaints.

ARTICLE XII. TERMINATION

A. Termination for Convenience

The State may terminate performance of work under this Agreement for its convenience in whole or, from time to time, in part, if the State determines that a termination is in the State's interest. The State shall terminate by delivering to the contractor a Notice of Termination specifying the extent of termination and the effective date thereof. Such termination shall be effective thirty (30) days from the delivery of the Notice of Termination. The parties agree that, as to the terminated portion of the Agreement, the Agreement shall be deemed to remain in effect until such time as the termination settlement, if any, is concluded and the Agreement shall not be void.

- B. After receipt of a Notice of Termination, and except as directed by the State, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any funds due under this clause.

The Contractor shall:

1. Stop work as specified in the Notice of Termination.
2. Place no further subcontracts for materials, or services, except as necessary to complete the continued portion of the contract.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE XII. TERMINATION (Continued)

3. Terminate all subcontracts to the extent they relate to the work terminated.
4. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts (the approval or ratification of which will be final for purposes of this clause).

C. Termination for Default

The State may by written notice of default to the Contractor, terminate this Agreement, in whole or in part, as a consequence of any of the following events:

1. A violation of the law or failure to comply with any condition of this Agreement.
2. Inadequate performance or failure to make progress so as to endanger performance of this Agreement.
3. Failure to comply with reporting requirements.
4. Evidence that the Contractor is in an unsatisfactory financial condition as determined by an audit of the Department or evidence of a financial condition that endangers performance of this Agreement and/or the loss of other funding sources.
5. Delinquency in payment of taxes or payment of costs for performance of this Agreement in the ordinary course of business.
6. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the Contractor.
7. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income.
8. The commission of an act of bankruptcy.
9. Finding of debarment or suspension, Article II J.
10. The Contractor's organizational structure has materially changed.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE XII. TERMINATION (Continued)

- D. Such termination of this Agreement, shall take effect immediately in the case of threat to life, health, or safety of the public or, in all other cases, upon thirty (30) days subsequent to written notice to the Contractor. The notice shall describe the action being taken, the reason for such action and, any conditions of the termination, including the date of termination. Said notice shall also inform the Contractor of its right to appeal such decision to the State and of the procedure for doing so.
- E. In the event of a termination notice, the Department will present written notice to the Contractor of any condition, such as, but not limited to, transfer of clients, care of clients, return of unspent funds, and disposition of property, which must be met prior to termination.
- F. The Department may determine that a Contractor may be considered a "high risk" agency as described in 45 CFR 92.12 for local governments and 45 CFR 74.14 for non-profit organizations. If such a determination is made, the Contractor may be subject to special conditions or restrictions.

ARTICLE XIII. REMEDIES

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

ARTICLE XIV. DISSOLUTION OF ENTITY

The Contractor shall notify the Department immediately of any intention to discontinue existence of the entity or to bring an action for dissolution.

ARTICLE XV. REVISIONS OR MODIFICATIONS

- A. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.
- B. The State reserves the right to revise, waive, or modify the Agreement to reflect any restrictions, limitations, or conditions enacted by Congress or the Legislature or as directed by the Executive Branch of State Government.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE XVI. NOTICES

- A. Any notice to be given hereunder by either party to the other may be effected by personal delivery in writing or by registered or certified mail, overnight mail, postage prepaid, return receipt requested, or overnight mail, provided Contractor retains receipt, and shall be communicated as of actual receipt.
- B. Any notice given to the CDA for a contractor's change of legal name, main address, or name of Director shall be addressed to the Director of the Department.
- C. All other notices with the exception of those identified in Article VII. B. shall be addressed to the California Department of Aging, AAA Based Teams, 1600 K Street, Sacramento, California 95814. Notices mailed to the Contractor shall be to the address indicated on the coversheet of this Agreement.
- D. Either party may change its address by written notice to the other party in accordance with this Article.

ARTICLE XVII. DEPARTMENT CONTACT

- A. The name of the Department's contact to request revisions, waivers, or modifications affecting this Agreement, will be provided by the State to the Contractor upon full execution of this Agreement.
- B. The contractor shall submit the name of its Agency Contract Representative (ACR), for this Agreement by submitting an Agency Contract Representative form to the CDA's Contracts and Business Services Section. This form requires the ACR's address, phone number, e-mail address, and FAX number to be included on this form. For any change in this information, the Contractor shall submit an amended Agency Contract Representative form to the same address. This form may be requested from the Contracts and Business Services Section.

ARTICLE XVIII. CONFIDENTIALITY

- A. Identity shall include, but not be limited to, name, identifying number, symbol or other identifying characteristic assigned to the individual, such as finger or voice print or a photograph.
- C. The Contractor shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for statistical information not identifying any participant. This provision shall remain in force even after termination.
- D. The Contractor shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.

Special Terms and Conditions - Exhibit D
Title V

ARTICLE XVIII. CONFIDENTIALITY (Continued)

- E. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the participant, any such identifying information to anyone other than the State without prior written authorization from the State, except by court order.
- F. The Contractor may allow participants to authorize the release of information to specific entities, but shall not request or encourage any participant to give a blanket authorization or sign a blank release, nor shall the Contractor accept such from any participant.
- G. The Contractor agrees to comply with the privacy and security requirements of Health Insurance Portability and Accountability Act (HIPAA) to the extent applicable and to take all reasonable efforts to implement HIPAA requirements. Contractor will make reasonable efforts to ensure that subcontractors comply with the privacy and security requirements of HIPAA.

ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA

A. Copyrights

- 1. If any material funded by this Agreement is subject to copyright, the State reserves the right to copyright such material and the Contractor agrees not to copyright such material, except as set forth in subdivisions (b) and (c) of this section.
- 2. The Contractor may request permission to copyright material by writing to the Director of the Department. The Director shall consent to or give the reason for denial to the Contractor in writing within sixty (60) days of receipt of the request.
- 3. If the material is copyrighted with the consent of the Department, the State reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, prepare derivative works, publish, distribute and use such materials, in whole or in part, and to authorize others to do so, provided written credit is given the author.
- 4. The Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this contract for the acquisition, operation, or maintenance of computer software in violation of copyright laws.

ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA (Continued)

B. Rights in Data

1. The Contractor shall not publish or transfer any materials, as defined in item 2 below, produced or resulting from activities supported by this Agreement without the express written consent of the Director of the Department. That consent shall be given or the reasons for denial shall be given and any conditions under which it is given or denied within thirty (30) days after the written request is received by the Department. The Department may request a copy of the material for review prior to approval of the request. This subsection is not intended to prohibit contractors from sharing identifying client information authorized by the participant or summary program information which is not client-specific.
2. As used in this Agreement, the term "subject data" means writings, sound recordings, pictorial reproductions, drawings, designs or graphic representations, procedural manuals, forms, diagrams, workflow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are first produced or developed under this Agreement. The term does not include financial reports, cost analyses, and similar information incidental to contract administration, or the exchange of that information between Area Agencies on Aging to facilitate uniformity of contract and program administration on a statewide basis.
3. Subject only to the provisions of Article XVIII and Article XIX of this Exhibit, the State may use, duplicate, or disclose in any manner, and have or permit others to do so subject to State and federal law all subject data delivered under this Agreement.
4. Materials published or transferred by Contractor shall: (a) state "The materials or product were a result of a project funded by a contract with the California Department of Aging"; (b) give the name of the entity, the address, and telephone number at which the supporting data is available; and (c) include a statement that "The conclusions and opinions expressed may not be those of the California Department of Aging and that the publication may not be based upon or inclusive of all raw data."

Additional Provisions – Exhibit E
Title V

**ARTICLE I. ASSURANCES SPECIFIC TO THE TITLE V SENIOR COMMUNITY SERVICE
EMPLOYMENT PROGRAM (SCSEP)**

- A. The Contractor shall assure the following:
1. Services are provided only to the defined Eligible Service Population.
 2. Participants, while enrolled in the Title V SCSEP, shall receive at least the current minimum wage plus fringe benefits. Fringe benefits must be provided uniformly to all participants within a project or subproject. There is no hour limit for a participant's community service assignment in a 12-month period. Participants must be paid for hours spent in orientation and training plus for sick leave and vacation.
 3. Participants shall be paid wages for time spent working in the assigned community service employment activity and be provided skill enhancement opportunities, annual physical examinations, personal and employment-related counseling, assistance in transition to unsubsidized employment, where feasible, and other benefits.
- B. The Contractor shall assure that the Title V SCSEP will serve the eligible service population and, to the extent feasible, special consideration must be given to individuals who have incomes below the poverty level and who have poor employment prospects and who have the greatest social and/or economic need and to individuals who are eligible minorities, limited English speakers, or Indians, as further defined in CFR 641.515 and OAA sec. 502(b)(1)(M).
- C. Political Activities. The Contractor shall assure the following:
1. The contractor will post a notice at each training site and make available to each participant a written explanation of allowable and unallowable political activities.
 2. Notices shall state that Title V SCSEP participants may engage freely in the political process with the following exceptions:
 - a) Participants may not engage in partisan or nonpartisan political activities on the job;
 - b) Participants may not present themselves as a spokesperson for Title V SCSEP while engaged in political activity; and
 - c) Participants may not be assigned to the office of a Member of Congress, a state or local legislator, or on any staff of a legislative committee.

Additional Provisions – Exhibit E

Title V

ARTICLE I. ASSURANCES SPECIFIC TO THE TITLE V SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP) (Continued)

- D. The Contractor shall have appropriate office space for conducting private participant interviews to enable participants to freely discuss their backgrounds and experiences in a confidential manner.

ARTICLE II. REPORTING PROVISIONS

- A. The Contractor shall submit Quarterly Progress Reports in accordance with Department requirements. Data reported must be timely, complete, accurate, and verifiable. The Contractor must submit program data reports to the Data Team at the California Department of Aging, via e-mail (datateam.paper@aging.ca.gov), according to the frequency listed:

- Quarterly Progress Report, quarterly

Quarterly reports are due October 10, January 10, April 10, and July 10. For late reports the Contractor shall submit a written explanation and corrective action plan to the Data Team by the report due date. This written explanation shall include the reasons for the delay and the date the report will be submitted.

- B. The Contractor shall submit as requested the following satisfaction surveys in accordance with Department of Labor requirements set forth in 20 CFR Part 641, Subpart G, Section .710:

- Satisfaction of participants
- Satisfaction of employers
- Satisfaction of host agencies

- C. The Contractor shall have a plan to ensure accuracy of data from all levels. This plan shall include a method for the Contractor and subcontractors to verify the accuracy of their data prior to submission to the Data Team.

The contractor shall train and orient staff and subcontractor's staff regarding program data collection and reporting requirements.

Additional Provisions – Exhibit E
Title V

ARTICLE III. APPEAL PROCESS

- A. In relation to an appeal conducted as a result of a termination for cause against a Title V SCSEP participant, the decision of the Contractor is final. In accordance with 20 CFR Part 641 and 29 CFR Part 89, Section 674.324 and the SCSEP Manual, Sections 2418 and 2420, no appeal shall be elevated to the DOL unless a federal law has been violated. In the event an appeal is elevated to DOL, a copy must be provided to the Department. Complaints alleging discrimination on the basis of race, color, religion, sex, national origin, disability, or age may be filed with the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-4123, Washington, D.C. 20210.
- B. In the event of a Contract dispute or grievance regarding the terms and conditions of this Contract both parties shall abide by the following procedures:
1. The Contractor shall first discuss the problem informally with the designated coach of the AAA based team within the Department. If the problem is not resolved, the Contractor must, within fifteen (15) working days of the failed attempt to resolve the dispute with the designated coach of the AAA based team within the Department, submit a written complaint together with any evidence to the Long-Term Care and Aging Services Division Deputy Director. The complaint must include the disputed issues, the legal authority/basis for each issue which supports the Contractor's position and the remedy sought. The Deputy Director shall, within fifteen (15) working days after receipt of the Contractor's written complaint, make a determination on the dispute and issue a written decision and reasons therefore. All written communication shall be pursuant to Exhibit D, Article XVI, of this Contract. Should the Contractor disagree with the decision of the Deputy Director, the Contractor may appeal the decision to the Chief Deputy Director of the Department.
 2. The Contractor's appeal must be submitted within ten (10) working days from the date of the decision of the Division Deputy Director; be in writing; state the reasons why the decision is unacceptable; and include the original complaint, the decision that is the subject of appeal, and all supporting documents. Within twenty (20) working days from the date of the Contractor's appeal, the Chief Deputy Director or designee shall meet with the Contractor for review of the issues raised on appeal and issue a final written decision.
 3. The Contractor may appeal the final decision of the Chief Deputy Director in accordance with the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Subchapter 2.5 commencing with Section 251, or Subchapter 3 commencing with Section 300, whichever is applicable, of the California Code of Regulations.)

Additional Provisions – Exhibit E

Title V

ARTICLE III. APPEAL PROCESS (Continued)

4. Costs incurred by the Contractor or subcontractor for administrative or court review are not reimbursable.

ARTICLE IV. SCSEP TRANSITION PLAN

- A. The Contractor shall submit a transition plan to the State within three business days of delivery of a written Notice of Termination to the contract. The transition plan must be approved by the State and shall at a minimum include the following:
 1. A process on how participants will be notified of program closure, reduction of slots, or change in service provider.
 2. A process on how confidential records of participants will be relinquished to the Contractor or new service provider.
 3. A process to communicate with National SCSEP grantees to transfer current participants into other employment/training opportunities.
 4. A process on how supportive services will be identified and provided to participants to ease in the transition.
 5. A process to conduct a property inventory and plan to dispose or transfer, or return to the State all equipment purchased during the entire operation of the contract.
- B. Contractor shall implement the Transition Plan as approved by the State. The State will monitor the Contractor's progress in carrying out all elements of the transition plan.
- C. If the Contractor fails to provide and implement a transition plan as required by paragraphs A and C of Article XII, Exhibit D of this Agreement, the Contractor agrees to implement a transition plan submitted by the State to the Contractor following the Notice of Termination.