

**PURCHASE AREA DEVELOPMENT DISTRICT  
AREA AGENCY ON AGING AND INDEPENDENT LIVING  
RFP FY 2023 – FY 2025**

# **ATTACHMENT A REFERENCE MATERIALS**

## **REFERENCE MATERIALS INCLUDED**

Code of Conduct for Procurement and for the Allocation of Aging Funds  
FY 2023 Subcontractor Funding Levels  
FY 2023 Fixed Price Unit Costs by Program  
Geographical and Volume Information  
Census Population Statistics  
Local Administrative Review Procedures  
Instruction for RFP Budget Form Completion  
PADD/AAAIL Policies and Procedures  
Sample Contract

**PURCHASE AREA DEVELOPMENT DISTRICT  
AREA AGENCY ON AGING AND INDEPENDENT LIVING  
RFP FY 2023 – FY 2025**

**CODE OF CONDUCT FOR PROCUREMENT  
AND FOR THE  
ALLOCATION OF AGING FUNDS**

A Code of Conduct is a brief document, which delineates the roles and responsibilities of the parties involved in procurement of aging programs and services and the allocation of aging funds. There are a number of reasons for developing a code of conduct. One reason is to ensure that all involved parties understand their roles and responsibilities. The second reason is to inform Applicants of these roles and responsibilities. Procurement standards also require a code of conduct.

I. Affected Parties – (Purchase Area Development District)

The following parties are affected by this code of conduct: Members of the Purchase Area Development District Board of Directors, Aging Committee members, Project Review Subcommittee members and the staff of the Purchase Area Development District. None of these parties may solicit or accept gifts, gratuities, favors or anything of monetary value in the performance of their duties and responsibilities.

II. Roles and Responsibilities of Affected Parties – (Purchase Area Development District)

In general Affected Parties cannot:

- Reveal confidential business information, trade secrets, techniques or processes of an Applicant;
- Reveal relative merits or technical standing of proposals;
- Provide information to one Applicant and not others;
- Use unannounced selection criteria.

III. Conflict of Interest – (Applicant)

No person with a conflict of interest shall participate in the evaluation or selection of a proposal, the award of a contract or the allocation of aging funds.

The following will be considered to have a real or apparent conflict of interest:

- an employee, board member, officer, advisory council member, contractor or agent of an Applicant;
- any immediate family member of an employee, officer, contractor or agent of an Applicant;
- a partner of an Applicant organization;
- a person who is about to be employed by an Applicant; or
- anyone with a financial or other interest in the Applicant's organization.

- IV. Purchase Area Development District Board of Directors  
This body has the authority at the district level for the award of contracts and the approval of allocations of aging funds.

Aging Committee of the Board of Directors

This body operates in an advisory capacity to the Board of Directors. Either the Aging Committee or a designated subcommittee will be responsible for evaluating each Applicant proposal based upon established criteria. The Aging Committee will make its selection recommendations to the Board of Directors.

Area Agency on Aging and Independent Living Director

This position will act as the project coordinator and as the point of contact for Applicants.

- V. Project Monitor and Project Coordinator

The Project Monitor and Project Coordinator will both ensure that:

- all applicable regulations are met;
- equitable treatment is provided to all applicants;
- technical questions are responded to on a timely basis;
- complete, written records are maintained;
- proper procedures are followed during the procurement and allocations processes.

**PURCHASE AREA DEVELOPMENT DISTRICT  
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GEOGRAPHICAL AND VOLUME INFORMATION  
RFP FY 2023 – FY 2025**

2022 Home Delivered Meals

Fiscal year 2022 state and federal funds expended totaled \$1,354,235.41.

| <u>County</u> | <u>Type of Meal</u> | <u>Annual Volume</u> |
|---------------|---------------------|----------------------|
| Ballard       | Hot                 | 10,367               |
|               | Frozen              | 722                  |
| Calloway      | Hot                 | 48,219               |
|               | Frozen              | 3,500                |
| Carlisle      | Hot                 | 7,218                |
|               | Frozen              | 385                  |
| Fulton        | Hot                 | 15,066               |
|               | Frozen              | 968                  |
| Graves        | Hot                 | 25,714               |
|               | Frozen              | 243                  |
| Hickman       | Hot                 | 10,735               |
|               | Frozen              | 1,194                |
| Marshall      | Hot                 | 12,763               |
|               | Frozen              | 286                  |
| McCracken     | Hot                 | 67,501               |
|               | Frozen              | 418                  |

**PURCHASE AREA DEVELOPMENT DISTRICT  
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**GEOGRAPHICAL AND VOLUME INFORMATION**

**RFP FY 2023 – FY 2025**

2022 Congregate Meals (hot meals)

Fiscal year 2022 state and federal funds expended totaled \$237,896.02.

| <u>County</u>    | <u>Annual Volume</u> |
|------------------|----------------------|
| Ballard County   | 5,287                |
| Calloway County  | 12,606               |
| Carlisle County  | 2,101                |
| Fulton County    | 7,613                |
| Graves County    | 9,859                |
| Hickman County   | 3,176                |
| Marshall County  | 0                    |
| McCracken County | 15,793               |

**PURCHASE AREA DEVELOPMENT DISTRICT  
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**GEOGRAPHICAL AND VOLUME INFORMATION**

**RFP FY 2023 – FY 2025**

2022 Transportation

Fiscal year 2022 federal and state funds expended totaled \$57,795.22.

| <u>County</u> | <u>Riders</u> | <u>Trips</u> |
|---------------|---------------|--------------|
| Ballard       | 18            | 1,781        |
| Calloway      | 74            | 735          |
| Carlisle      | 21            | 182          |
| Fulton        | 8             | 1,148        |
| Graves        | 26            | 1,187        |
| Hickman       | 4             | 774          |
| Marshall      | 0             | 0            |
| McCracken     | 159           | 5,863        |

**PURCHASE AREA DEVELOPMENT DISTRICT  
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**GEOGRAPHICAL AND VOLUME INFORMATION**

**RFP FY 2023 – FY 2025**

2022 Legal Assistance

Fiscal year 2022 federal and state funds expended totaled \$43,862.50.

| <u>County</u> | <u>Clients served</u> |
|---------------|-----------------------|
| Ballard       | 10                    |
| Calloway      | 37                    |
| Carlisle      | 8                     |
| Fulton        | 5                     |
| Graves        | 51                    |
| Hickman       | 4                     |
| Marshall      | 45                    |
| McCracken     | 174                   |

**PURCHASE AREA DEVELOPMENT DISTRICT  
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**2020 CENSUS POPULATIONS STATISTICS  
 RAW DATA AND PERCENTAGES**

|             | BALLARD | GALLOWAY | CARLISLE | FULTON | GRAVES | HICKMAN | MCCRACKEN | MARSHALL | TOTAL |
|-------------|---------|----------|----------|--------|--------|---------|-----------|----------|-------|
| 60+ POP. *  | 2002    | 7737     | 1299     | 1880   | 8388   | 1368    | 15194     | 8235     | 45901 |
| %           | 4.4     | 16.9     | 2.8      | 3.8    | 18.3   | 3.0     | 33.1      | 17.9     | 100.0 |
| #LI **      | 239     | 600      | 212      | 285    | 1202   | 184     | 1326      | 616      | 4664  |
| %           | 5.1     | 12.9     | 4.5      | 6.1    | 25.8   | 4.0     | 28.4      | 13.2     | 100.0 |
| #60+ MIN ** | 166     | 588      | 25       | 248    | 420    | 212     | 1589      | 495      | 3743  |
| %           | 4.4     | 15.7     | 0.7      | 6.6    | 11.2   | 5.7     | 42.5      | 13.2     | 100.0 |
| LIM **      | 7       | 47       | 4        | 91     | 95     | 15      | 287       | 19       | 565   |
| %           | 1.2     | 6.3      | 0.7      | 16.1   | 16.8   | 2.7     | 50.8      | 3.4      | 100.0 |
| #RURAL ***  | 1760    | 3619     | 1229     | 906    | 4776   | 1282    | 3204      | 5814     | 22590 |
| %           | 7.8     | 16.0     | 5.4      | 4.0    | 21.2   | 5.7     | 14.2      | 25.7     | 100.0 |
| #75+ *      | 640     | 2420     | 475      | 585    | 2804   | 482     | 5273      | 2589     | 15268 |
| %           | 4.2     | 15.9     | 3.1      | 3.8    | 18.4   | 3.2     | 34.5      | 16.9     | 100.0 |

60+ POP means the number of persons aged 60 or over

LI indicates the number of residents who are low income

MIN shows the number of residents who are minority

LIM means the number of persons both low income and minority

Rural is the number of residents in a county considered to be rural

75+ is the number of persons aged 75 or over in the county

\* numbers from 2010 Census

\*\* numbers from KY State Data Center

\*\*\* see KY State Data Center numbers from 2010 Census as available. These numbers from 2020 Census



**PURCHASE AREA DEVELOPMENT DISTRICT  
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**LOCAL ADMINISTRATIVE REVIEW PROCEDURES**

**DECISION NOTICE**

All decisions made by the PADD/AAAIL in the awarding of services for Aging Programs shall be in accordance with approved procurement practices and shall allow for procedures to provide a full and fair opportunity to resolve any complaints or protests that may arise in contractor selection actions and in accordance with 910 KAR 1:140 ([www.lrc.ky.gov/kar/910/001/140.htm](http://www.lrc.ky.gov/kar/910/001/140.htm)).

Within seven (7) days of any decision which denies an Applicant its request to provide a service or which terminates or does not renew a Provider's contract to provide a service, the PADD/AAAIL shall deliver written notice of such decision to the affected Applicant/Provider by registered or certified mail. The notice of decisions shall: (a) specify the reason(s) for the adverse action; (b) advise the Applicant/Provider that he/she has ten (10) days from receipt thereof to file a written complaint or protest with the PADD/AAAIL; and (c) advise the Applicant/Provider that failure to file such complaint or protest in a timely manner shall constitute a waiver of his/her opportunity for a hearing at the state agency level.

The Applicant/Provider must file a written request, by registered or certified mail, requesting a local administrative review within ten (10) calendar days following the Applicants receipt of the notice of adverse action. This written request must be addressed to:

Chairperson of Aging Committee  
Purchase Area Development District  
1002 Medical Drive  
P.O. Box 588  
Mayfield, Kentucky 42066

**REVIEW PROCEDURES**

The PADD/AAAIL shall conduct an administrative review promptly after receipt of a written complaint or protest from an Applicant or Provide in accordance with 910 KAR 1:140. The protest should contain the specific reason for local administrative review. The Local Administrative Review shall be completed no later than twenty (20) days after the PADD/AAAIL: receives the written complaint or pretest.

This review shall provide the complaining or protesting Applicant or Provider an opportunity to: (1) review any pertinent evidence upon which the adverse action was based, including any competing proposals and scoring sheets; (2) request reconsideration of an award if one has

been made; and (3) state in writing the reason(s) why the complaint or protest is filed and the factual circumstances and issues which should be considered during the review.

The Local Administrative Review shall include the following:

1. The unsuccessful Applicant may appeal to the Chairperson of the Purchase Aging Committee for a hearing concerning their unsuccessful application. The request for the hearing must be received in writing by PADD/AAAIL no later than ten (10) calendar days after their notification of an unsuccessful grant award. The unsuccessful Applicant will be allowed to present additional or clarifying information about their application. A decision about the applicant's appeal will be made within three (3) calendar days after the hearing and written notification of the decision will be sent to the appealing party.
2. An opportunity to present witnesses and documentary evidence;
3. An opportunity to be represented by counsel;
4. An opportunity to cross-examine all witnesses; and
5. A written impartial decision which sets forth the reasons for the decision, the evidence on which the decision is based, and a statement explaining the complainant's right to request a State-level hearing.

The PADD/AAAIL shall promptly complete the Local Administrative Review and shall respond with particularity in writing by Certified Mail Return Receipt Required to the Applicant or Provider its findings and determinations on all issues raised in the complaint or protest no later than twenty (20) days after the PADD/AAAIL received notice of said complaint or protest. A copy shall be forwarded to the Department for Aging and Independent Living. The PADD/AAAIL shall include in its response a written notice to the Applicant or Provider of the right to request a State-level hearing.

The PADD/AAAIL assures that all service Providers, regardless of contracting level, shall have in place a local administrative review process with the minimum requirements as described in (1) through (5) above, except that subcontractors have a right only to a State-level review as set forth below and in accordance with 910 KAR 1:220.

A subcontractor (or "Provider") of the PADD/AAAIL shall be afforded a de novo hearing by the PADD/AAAIL with an opportunity for appeal at the State level for a review of the transcript if the request and grounds for hearing are in accordance with these procedures.

The PADD/AAAIL will provide a transcript of such hearings to the State Agency if the complaint is not resolved, and a State-level review of the PADD/AAAIL hearing is requested.

#### **INTENT**

The purpose of a Local Administrative Review is to provide the PADD/AAAIL and the Applicant or Provider an opportunity to resolve complaints and protests regarding administration of the Title III program at the local level. Accordingly, the PADD/AAAIL will make a good faith effort to review the facts and issues and achieve an amicable resolution. No request for a hearing at the State agency level shall be accepted until all administrative remedies have been exhausted at the local level.

**GRAPHIC TIME FRAME**

|  |        |
|--|--------|
| Decision made by PADD/AAAIL  | Day 1  |
| Applicant/Provider notified of decision by PADD/AAAIL  | Day 8  |
| Applicant requests Local Administrative Review   | Day 18 |
| Local Administrative Review completed and Applicant notified in writing of Local Review Decision | Day 38 |

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**PURCHASE AREA DEVELOPMENT DISTRICT**

**AREA AGENCY ON AGING  
AND  
INDEPENDENT LIVING**

**POLICIES AND PROCEDURES**

**FISCAL YEAR 2024**

**PURCHASE AREA DEVELOPMENT DISTRICT**

**AREA AGENCY ON AGING AND INDEPENDENT LIVING**  
**Policies and Procedures**

**COMPLIANCE WITH DAIL AND AAAIL POLICIES AND PROCEDURES**

**POLICY**

All contractors of the PADD/AAAIL shall be given and shall have thorough knowledge of the Department for Aging and Independent Living (DAIL) Standard Operating Procedures document and shall comply with all applicable policies and procedures of the SOP.

PADD/AAAIL policies and procedures shall also be provided to each contractor. PADD/AAAIL documents shall mirror those of the DAIL. Additional policies and procedures specific to PADD/AAAIL shall also be provided. Contractors shall also comply with all AAAIL policies and procedures.

**PROCEDURES**

The PADD/AAAIL shall provide each contractor with the program specific and general sections of the DAIL SOP.

The PADD/AAAIL shall also provide each contractor with the Policies and Procedures developed by the AAAIL for general operations and program specific operations as applicable.

Policies and procedures developed by the AAAIL shall not be less stringent than the DAIL SOP. However, additional policies and procedures, including waivers, may be developed by the AAAIL based on local operations and needs/desires and with the approval of the local Project Review and Aging Committees, the PADD Board of Directors and DAIL and also in consultation with the providers for whom the policies and procedure will affect.

Compliance with all DAIL and AAAIL local Policies and Procedures shall be required.

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Policies and Procedures**

**PROVISION OF INFORMATION AND REFERRAL SERVICES**

**POLICY**

The Purchase AAAIL and all subcontractors shall provide Information and Referral/Assistance services to persons contacting their agency.

**PROCEDURE**

The PADD/AAAIL and all subcontractors shall, upon contact from seniors, caregivers or the general public, provide information and assistance and/or referral regarding services and programs available in the community and district.

Each person who calls, faxes, e-mails, or has face-to-face contact shall be provided as much information as possible from the provider to ensure that they have the knowledge and information to access the services they need for themselves, their loved ones, friends or neighbors.

The current Senior Services Directory, PAMHAC Resource Manual, County or City Resource Booklets, phone book, or other resource materials shall be available to use to provide the assistance needed.

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**SUB-CONTRACTOR MONITORING**

**POLICY**

All Federal, State and local programs shall be monitored in accordance with the applicable federal, state or local regulations. Technical assistance shall be provided by the AAAIL at the time of each visit.

**PROCEDURES**

AAAIL staff shall conduct announced and unannounced monitors. Kitchen and nutrition site monitors shall be unannounced. Senior centers, adult day care, and administrative monitors shall be scheduled. Meal route monitors may be unannounced or announced. Announced monitors shall be scheduled in cooperation with the subcontractor. Each service shall be monitored once per year or as often as required by federal, state and local regulations.

A copy of the monitoring tool shall be provided to the subcontractor prior to the scheduled visit for senior center, adult day care and administrative monitors. Copies of any monitors which have been revised shall be provided prior to the monitor visits.

After the completion of the monitor, a letter shall be sent to the agency's director at the earliest convenience and no later than four (4) weeks following the monitor visit. The monitor letter shall provide a review of previous findings (if any) and their resolution, a list of the current findings (if any) and the recommended corrections, and shall request corrective action plan information and provide a deadline for response.

Periodic review of subcontractor files shall be made to determine if the response has been received.

If follow-up action is required, subsequent visits to the subcontractor may be arranged and may be announced or unannounced.

After all corrections have been completed and verified, the AAAIL shall send a notice indicating corrections have been completed.

**PURCHASE AREA DEVELOPMENT DISTRICT  
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**SATISFACTION SURVEYS**

**POLICY**

All Federal, State and local programs shall conduct Satisfaction Surveys for each program.

**PROCEDURES**

Satisfaction Surveys shall be conducted for the following programs:

**PADD** shall conduct satisfaction surveys for LTC Ombudsman, IIIB In-Home services Assessment and Case Management, Title III-D Mental Health and Title III-D Medication Misuse, Title III-E National Family Caregiver Support Program, Kentucky Caregiver Program, SHIP and CDO.

**Contractors** shall conduct satisfaction surveys for Title III-B (Transportation, Health Promotion and Telephone Reassurance), Title III-B Legal Services, Title III-C1 Congregate meals, Title IIIC2 Home Delivered Meals, Title III-D-Mental Health, Title III-D-Medication Misuse, Adult Day Care, Alzheimer's disease Respite, SCSEP, and IIIB In-Home services Home Management, IIIB In-Home services Home Repair, IIIB In-Home services Personal Care, and IIIB In-Home services Respite.

Satisfaction surveys shall be conducted using printed forms requesting participants' satisfaction on specific items related to the service provided.

The survey results shall be compiled onto a survey summary page and submitted to the AAAIL along with the monthly reports no less than once per year and no later than April 10<sup>th</sup> of the fiscal year. The contractor must indicate the number of surveys sent or distributed to participants and the number returned with a % rate of returned surveys. The percentages of positive responses must also be indicated. Comments of participants shall be compiled on a separate sheet of paper and sent with the compilation survey results.

Original completed surveys are to be maintained and stored for a period of three (3) years at the provider location and be available for review by the AAAIL or DAAIL as requested.



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**LIMITED ENGLISH SPEAKING RIGHTS**

**POLICY**

Individuals with limited English proficiency shall have the same access to all services available through the PADD/AAAIL as any other fluent English speaking individual.

**PROCEDURES**

When individuals contact the PADD/AAAIL for services and have limited English speaking ability, the AAAIL staff shall first make an effort to work with the individual to understand the needs of the individual.

If assistance is still needed, aging staff shall contact foreign language speaking PADD staff (includes French, Spanish, Portuguese and Chinese languages) for assistance.

If no one is able to assist, the AAAIL shall make contact with a same language speaking individual for interpretation purposes.

Murray State University language department shall be one source of assistance.

The AAAIL shall do everything within its resources to provide the assistance needed.

Providers shall also be responsible for assisting persons with limited English speaking ability to access their services.

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**FAIR SHARE ALLOCATION OF SERVICES**

**POLICY**

The PADD Area Agency on Aging and Independent Living and contractors which are multi-county providers shall serve clients based, in part, on a fair share distribution of services. This distribution shall be based on the number of clients in relationship to the eligible population for their service in each of the eight Purchase counties.

**PROCEDURE**

Clients, requesting services for which a waiting list exists, shall be placed on a waiting list based on the county in which they reside and will be receiving services.

When a service becomes available, the provider shall first look at the distribution of clients across the district. A percentage of clients in each county shall receive services based on that county's eligible population totals, a fair share allocation of services across the district, and an assigned priority score determined by assessment of the client's need using the level one screening tool.

Contractors shall be responsible for allocating services based on an assigned priority score.

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**MATCHING FUNDS: FEDERAL, STATE AND LOCAL FUNDS**

**POLICY**

All Federal, State and local funds must be expended in accordance with the approved area plan budgets.

Matching funds, including cash, in-kind contributions, and/or program income (as applicable) must be reported and expended in accordance with the program's regulations.

**MATCHING FUNDS**

Matching funds include in-kind contributions or local cash donated to pay costs of centers, sites or services and must meet the following:

- Shall not be supported with Federal funds
- Shall be an allowable cost
- Shall be included in the accounting records and audit, and
- Shall not be used to match any other Federal program.

**PROCEDURES FOR CASH DONATIONS**

Donations must be collected in a discreet and confidential manner from clients.

No means testing shall be allowed.

Donations shall be used to expand services for which the donation was received.

A record of persons donating shall not be kept.

Two persons (one staff and one participant/volunteer) shall open, count and document donations at least weekly.

Money shall be kept in a locked box placed in a safe or locked cabinet or deposited daily.

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Financial reporting forms shall be used to report the donations received each month.

**IN-KIND DONATIONS**

In-kind contributions shall be allowed to be used for the purpose of meeting the match when state funds and local cash are not sufficient to provide the match required to obtain the maximum Federal funds.

In-kind resources shall include donated goods such as equipment or supplies, volunteer services or donated property. No cash shall be included.

In-kind shall represent the fair market value of the property or service which benefits the program and which is contributed by non-federal third parties without charge to the recipient.

In-kind forms, provided by the PADD, shall be used to verify the provision of in-kind and shall be provided to the PADD as the in-kind is reported and made available to the state as requested.

**FEES**

Fees assessed for services in IIIB In-Home services, Adult Day Care and Alzheimer's Respite shall be invoiced, collected and reported on the appropriate forms and submitted to the PADD monthly. This is program income and allowable under these State-funded programs.

**PROGRAM INCOME**

Program income shall be spent during the same fiscal year in which it is collected and shall be used to further the objectives of the program.



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**AGENCY** \_\_\_\_\_

**IN-KIND DOCUMENTATION FORM FOR DONATED ITEMS**

NAME OF DONOR: \_\_\_\_\_

ITEM DONATED: \_\_\_\_\_

PROGRAM: III-C \_\_\_\_\_  
                  III-B \_\_\_\_\_  
                  III-B In home \_\_\_\_\_

CURRENT VALUE OF ITEM: \_\_\_\_\_

I, \_\_\_\_\_, do hereby certify that, I have  
donated the above referenced item to the \_\_\_\_\_ at an  
estimated current value as shown.

**TODAY'S DATE:** \_\_\_\_\_

**SIGNATURE OF DONOR:** \_\_\_\_\_

PREPARED BY: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

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**EQUIPMENT**

**POLICY**

Contractors shall comply with all applicable federal and state requirements for the procurement, use, maintenance, inventory control and disposal of equipment purchased in whole or in part with federal and/or state funds.

**PROCEDURES**

**Procurement**

Procurement transactions, regardless of method or dollar value, will maximize open and free competition.

Purchases made with the direct payment of federal and/or state funds, must be preapproved by the AAAIL. Purchases made with the earned per unit rate funds in excess of expenses shall not require oversight by the AAAIL.

For purchase of less than \$500.00, efforts must be made to get the lowest and best price, but written records of such efforts are not necessary.

Purchases which cost between \$500.00 and \$1,000 require three (3) over-the-telephone quotations of rate, price, etc. A memorandum shall be prepared setting forth the date the calls were made, parties contacted and prices obtained. All items costing \$500.00 or more require prior approval from DAIL.

Purchases of equipment which costs between \$1,000 and 20,000 shall require written estimates but no legal advertisement is required. The contractor shall solicit written responses from at least three (3) vendors, and if no such responses are available, a statement explaining the procurement shall be prepared and filed.

**Use**

Equipment (including furniture) may only be used for the intended purposes and by the contracting agency.

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**Maintenance**

The equipment must be housed in an appropriate location which protects the equipment from the elements and a maintenance schedule must be maintained to keep the equipment in good working order.

**Inventory Control**

All equipment must be documented on an inventory listing that includes the following at a minimum: description of the item, date of purchase, purchase price, funding source(s) including the percentage of the federal and/or state share of the item, a unit cost if applicable, location of equipment, inventory identification (serial) number, current condition of the item and when disposed, documentation regarding the disposition of the item. Each piece of equipment shall have an inventory identification (serial) number affixed.

An inventory assessment shall be conducted annually in order to keep the inventory records up-to-date.

**Disposal of Equipment**

Equipment purchases in whole or in part with federal and/or state funds shall belong to the program for which it was purchased and shall not belong to the agency. If the contractor no longer provides the program for which the equipment was purchased, all equipment/supplies, regardless of value, must be transferred to a new provider in compliance with the contract.

If the contractor wishes to dispose of any equipment the options include:

- 1) Contact other agencies which utilize the same funds for the same purpose to determine if another agency needs the equipment, in which case it may be transferred to another agency.
- 2) Sell the item. Following appropriate regulations, the contractor shall announce the sale of the equipment to the general public by (at a minimum) placing a notice in the newspaper and requesting bids for purchase. The proceeds may be used as follows:



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- a) Acquisition of a replacement item. In the case of an item valued at \$1,000 or more, the AAAIL has the right to require transfer of the equipment and title to an eligible party.
  - b) Applied as program income. If approved by the granting agency, the equipment may be sold with the federal share of the proceeds applied to the program as program income. If the federal share is not applied to the program income, the federal share, less selling expenses, shall be returned to the federal government or an eligible nonfederal party named by the DAIL.
- 3) Use the equipment as a trade in for newer equipment.
- 4) If the equipment is not salvageable, prepare appropriate documentation to request disposal of the equipment.

If the equipment is transferred, appropriate documentation must be provided to the AAAIL.

If the equipment is sold, appropriate documentation must be provided to the AAAIL regarding the bids. The funds received from the sale must be applied to the program(s) from which the funds were provided for the purchase and shall show an adjustment in program costs.

In the event a new provider is selected as a result of competitive bidding or if a contract is terminated by the provider or Cabinet and a new provider is secured, the AAAIL shall transfer items of equipment and supplies to the new provider.

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**IIIB IN-HOME SERVICES**

**ENSURING A SAFE WORKING ENVIRONMENT FOR STAFF AND CLIENTS**

**POLICY**

The Kentucky IIIB In-Home services program shall ensure a safe and healthy working environment for all workers (staff and volunteers) and clients.

**PROCEDURES**

Under the following conditions, but not limited to those conditions, workers and clients shall have the right to take appropriate actions to protect themselves from harm:

- Worker or client exhibits behavior regarded as a threat to the other member such as yelling, aggressive or inappropriate gestures or movements, display of items that could be considered weapons (guns, knives, etc.), inappropriate verbal statements (explicit or implied) especially related to a sexual, abusive or threatening context.
- There exists a criminal history of a worker or client convicted of an offense related to the physical harm of another individual, felony theft, drug or weapons offenses.
- Sanitary conditions of the residence present a health hazard to the worker or client such as: human or animal waste uncontained in the home, medical waste such as syringes or other biohazardous waste uncontained in the home, uncontrollable infestation of rodents and/or insects, etc. In cases of bed bug infestation, the bed bug infestation policy and procedure must be followed.
- Illegal drugs or drug paraphernalia (suspected) are openly present in the home, etc.
- Unrestrained animals are present and may cause a hazard.
- Unknown persons are present in the home at the time of service and may represent a threat.

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If these, or other, threatening conditions are present and the worker or client perceives a threat to his/her well-being, the worker or client may take the following precautions:

- Worker may remove themselves from the premises immediately indicating the reason for doing so or client may request that the worker leave the premises immediately.
- Notify supervisors or agency immediately.
- Contact law enforcement, if warranted.
- Request a review of the situation by agency staff.
- In some cases, referral of the client to DCBS may be appropriate and should be made by the worker.

After review and investigation of the situation by agency member(s), the following process shall be followed:

- Worker and/or client shall be notified in writing by the appropriate IIIB In-Home services staff person of the unacceptable behavior and shall be offered one opportunity to correct the situation.
- If the situation is not corrected to the satisfaction of the worker or client, the agency may discontinue service provision to an offending client or reassign another worker (or two) to provide the client's service; or, in the case of an offending worker, the agency may reassign or dismiss the offending staff.
- The worker or client shall have the right to the customary appeal process, if desired.

The IIB In-Home services or other in-home services program shall make every effort to assist the worker or client to resolve the situation so that services can continue to be provided.

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**CRIMINAL RECORDS CHECK**

**POLICY**

Employees and volunteers of the PADD Area Agency on Aging and Independent Living and all of its contractors and sub-contractors shall be required to undergo a criminal records check (CRC) prior to employment and in accordance with applicable federal, state and local policies. (This regulation applies to all volunteers, including interns and students.)

**PROCEDURE**

A criminal records check shall be required of all potential employees and volunteers who will provide direct services to seniors in all Area Agency on Aging and Independent Living programs.

The appropriate CRC paperwork shall be completed and signed by the potential employee or volunteer for submission.

The paperwork and fee shall be sent to the Office of the Administrative Courts to obtain a CRC.

Employees (AAAIL, contractor or subcontractor agency) may not begin work with clients, nor have access to private client records, prior to the receipt of the CRC results showing the employee or volunteer meets the requirements for employment.

A copy of the CRC report for each employee and volunteer shall be on file at the provider agency and available for review by the AAAIL, DAIL or other regulatory authority.

Reference KRS 216.787 (attached)

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**KRS 216.787 Prohibition against employing certain felons at publicly funded agencies serving senior citizens – Pre-employment check with Justice and Public Safety Cabinet.**

- (1) No agency providing services to senior citizens which are funded by the Department for Community Based Services of the Cabinet for Health and Family Services or the Department for Aging and Independent Living of the Cabinet for Health and Family Services shall employ persons in a position which involves providing direct services to a senior citizen if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime.**
  
- (2) Operators of service provider agencies may employ person convicted of or pleading guilty to an offense classified as a misdemeanor.**
  
- (3) Each service provider agency providing direct service to senior citizens as specified under KRS 216.785 to 216.793 shall request all conviction information from the Justice and Public Safety Cabinet for any applicant for employment prior to employing the applicant.**

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**ADULT ABUSE, NEGLECT OR EXPLOITATION REFERRALS**

**POLICY**

Clients suspected of being abused, neglected or financially exploited by others shall be referred to the Department for Community Based Services for evaluation/investigation.

**PROCEDURES**

When an AAAIL staff member or contactor staff suspects, or otherwise determines, that abuse, neglect or exploitation of one of their clients is occurring, they shall immediately contact the local Department of Community Based Services (DCBS) to make a referral to the appropriate DCBS service.

The staff member shall provide to the DCBS whatever information they have regarding the situation.

The referral will be made in accordance with DCBS regulations.

The person referring to DCBS may remain anonymous.

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**CONFLICT OF INTEREST AND THE RECEIPT OF GIFTS**

**POLICY**

Employees and volunteers of the PADD Area Agency on Aging and Independent Living, all of its contractors and/or sub-contractors shall not solicit, explicitly or implicitly, gifts, gratuities or other such benefits from consumers of the program, nor may they accept such gifts or gratuities.

Employees shall avoid any interest or activity which is in conflict with the conduct of official duties and shall avoid the appearance of conflict of interest, seeking or accepting no favor, personal benefit or profit, individually or for family members or friends, secured by privileged information or by misuse of position, public time or public resources.

Employees shall not directly or indirectly solicit any payments or accept or receive any payments or gifts – whether it be in the form of objects, money, services, loans, travel, entertainment, hospitality, or favors – that may be intended, perceived, inferred, expected or construed to influence them (in) the performance of their duties or reward any action on their part.

Staff members shall not express personal needs, concerns, or preferences related to finances or health or of any other related areas of a personal nature during the conduct of their work or contact with consumers, including during or after their employment with the PADD or with a subcontractor of the PADD, related to themselves or their families or other individuals with the intent or perception of soliciting sympathy, goods, services, gifts, money, or any other assistance from the consumer.

**PROCEDURES**

The provider agency shall notify staff, volunteers and consumers regarding this policy.

The provider agency shall ensure that staff and volunteers abide by the policy utilizing an appropriate monitoring method.

In the event a consumer offers a gift or token of appreciation, the staff member shall thank the consumer and inform them that the provider's policy prohibits acceptance of any gifts

or gratuities from consumers of the programs. If necessary, a further explanation may be provided.

Refer also to DAIL Policy and PADD Policy Section 4: Conflict of Interest

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**BED BUG INFESTATION**

**POLICY**

The AAAIL shall ensure the health safety and welfare of consumers and staff in the event of a consumer's home bed bug infestation.

**PROCEDURES**

If a bed bug infestation is identified by a consumer, or an AAAIL or subcontractor staff in a consumer's home, the staff member shall first make this problem aware to the consumer, if needed and then shall report the infestation to their immediate supervisor.

The supervisor shall notify all staff known to have contact in the home.

Staff of the AAAIL and its subcontractors shall take the following additional actions:

- 1) Only sit on plastic chairs or all wood chairs.
- 2) Use protective clothing (which may include gloves, paper shoe covers, hair covers, etc.) especially if actions require touching bedding, clothing or upholstered items. The provider agencies shall make available to their staff the protective garments to assist in reducing the spread of the infestation.
- 3) Place all protective items in a plastic bag upon exiting the home and discard the items. (Items are not to be reused.)
- 4) Assist the consumer in contacting any agencies or persons who work or visit in the home.
- 5) Provide the consumer with information about methods and agencies which can exterminate the bed bugs.
- 6) Offer consumers information about detecting and avoiding bed bugs infestation in the form of educational materials.

The AAAIL staff and the subcontracting staff shall take all preventive procedures necessary to prevent carrying bed bugs into a consumer's home or out of a consumer's home.



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**CONTINUATION OF SERVICE PROVISION**

The AAAIL and its subcontractors shall ensure that necessary services continue as recorded in the assessment and Plan of Care.

The AAAIL shall ensure that all policies and procedures related to consumer confidentiality and dignity remain in effect and are followed by the AAAIL and subcontractors.

In the event a provider agency staff member declines to serve in the consumer's home due to bed bug infestation, the consumer shall be provided with another staff member from the provider agency who is willing to provide services.

**CLIENT RESPONSIBILITY**

Consumers are responsible for managing the bed bug infestation. The AAAIL and contractor staff may provide information but may not perform any treatments. Educating the consumers is considered a first step in safety, management and elimination of the problem.

The AAAIL or contracting agency shall suggest measures for the consumer but may not require the consumer to follow through with the purchase or use of the methods suggested.

Consumers are responsible for determining the best method to combat pest infestation within their own residence.

If the resident lives in a rented home or apartment combating pest infestation is the responsibility of the consumers or landlord subrogation.

Treatments available may include:

Sprays: The consumer shall determine if they wish to use sprays. Providers are not allowed to spray any type of chemicals for pest infestation in a consumer's home. If the AAAIL or contractor staff wants to spray their own belongings or property (ex. Car) they

must provide the sprays at their own expense and use upon/after leaving the consumer's home.

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Steam cleaning: Consumer should contact a reputable agency that provides professional steaming services which are known to eliminate pest infestation.

Pest Control Company services: Agencies which specialize in pest control and especially bed bug infestations.

The cost of treatments for pest infestations, which may include the use of mattress covers, steam cleaning, and/or other pest control company methods, are all items/services that are at the discretion of the consumer and the cost of such shall be borne by the consumer/family and/or landlord as appropriate

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**UTILIZATION OF VOLUNTEERS**

**POLICY**

The PADD/AAAIL shall utilize volunteers in appropriate areas of service, depending on agency and program need and availability of qualified volunteers. Volunteers shall be treated as an equal partner to agency staff, shall meet all of the requirements for employment as agency staff, and be entitled to the rights and privileges of agency staff.

**PROCEDURES**

The following procedures and processes apply:

**RECRUITMENT**

Volunteers shall be recruited by any number of means including by word of mouth, announcements through media outlets, notes on bulletin boards in churches, businesses or schools, printed flyers, brochures, or letters distributed or sent to potential volunteers, contacts with personnel staff of local businesses or agencies, newspaper advertisements, PSA's, and presentations to clubs or civic groups to name a few.

Recruitment for general (generic) assistance or recruitment for specific volunteer positions shall be determined based on positions available and skills needed.

**SCREENING/HIRING**

Potential volunteers shall:

- 1) Complete an application for employment form.
- 2) Be personally interviewed.
- 3) Be screened for area of interest and provided job descriptions for the area(s) of interest.

- 4) Have an opportunity to select an appropriate volunteer position suitable to their interest and the agency needs.
- 5) Provide references who are non-relatives or friends, as applicable.

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- 6) Be informed of the required criminal records screening and complete process before providing direct services to clients, as applicable.
- 7) Agree to participate in orientation and training for the position.
- 8) Complete all confidentiality requirements and sign confidentiality form.
- 9) Agree to TB skin tests, as appropriate to position.

**TRAINING**

Volunteers shall be trained, initially and as an on-going benefit of their position in the agency.

Orientation shall include the provision of general information needed by all employees/volunteers.

Orientation should include, but not be limited to the:

- 1) History, mission and goals of the organization.
- 2) Specific programs and services provided, including sample publications of agency.
- 3) Organizational plan, staffing plan and the volunteers place in that plan.
- 4) Days and hours of operation of agency.
- 5) A tour of the facility and introduction to other staff and volunteers.
- 6) Rules and regulations of the facility, (smoking area, no food or drink areas, etc.).
- 7) Emergency procedures, (fire drills, emergency exits, first aid kit location, etc.), all applicable.
- 8) Job description.
- 9) Review of applicable report forms (volunteer hours, forms for recording job functions, etc.)
- 10) Volunteer insurance information, as applicable.
- 11) Dress code.
- 12) Grievance procedures for staff, volunteers and clients, along with information on rights and legal restrictions.
- 13) Policies and instructions for using the agency equipment, services, and building, as applicable.

14) Description of supervisor functions and job evaluation procedures, as applicable.

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**Job Training shall include:**

- 1) Information and instruction (testing for knowledge may be required) specific to volunteer job to be accomplished.
- 2) Policies (federal, state, district or local) related to job assignment.
- 3) Procedures for accomplishing work assignments.
- 4) Paperwork requirements for reporting completion of work.
- 5) A complete written job description.
- 6) On the job training, as applicable.
- 7) On-going instruction as needed.

**RECOGNITION/RETAINMENT**

Retaining good volunteers is as important to an agency as retaining good employees.

Proper job placement, thorough training and on-going guidance will help promote volunteer satisfaction. Listening to volunteer concerns, ideas and suggestions and providing constructive feedback will help a volunteer feel a part of the agency/program.

Recognizing volunteer efforts should be a part of any volunteer program.

Retention and recognition activities shall include several of the following, yet not be limited to the following:

- 1) Initial free training for the position.
- 2) On-going free training/opportunities for the position.
- 3) Technical assistance as needed.
- 4) Publication/distribution of a volunteer manual.
- 5) Suggestion forms/suggestion box for volunteers.
- 6) Volunteer of the year recognition.
- 7) Annual appreciation breakfast, luncheon, dinner or tea for volunteers (with possible recognition of hours of service — training may be also incorporated).
- 8) Newspaper or radio publicity for volunteers.
- 9) Distribution of certificates of appreciation.
- 10) Words of appreciation at public functions.

- 11) "Paychecks" distributed on "payday", but with poems or special sayings enclosed.
- 12) Pins or other mementoes recognizing years of service.

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**SUPERVISION AND ON-GOING EVALUATION**

Each volunteer deserves to be, and shall be, supervised appropriately and receive guidance and direction regarding their job duties and job performance.

The volunteer supervisor shall be available to answer questions, receive comments and provide guidance or instruction for the volunteer as needed to ensure the volunteer receives the attention needed in order for them to perform their job effectively and with satisfaction.

Volunteers shall receive a written evaluation of job performance at regular and appropriate intervals in accordance with the agency's policies.

All volunteer recruitment, screening, evaluation and recognition activities shall be maintained in a personnel file located in the PADD/AAAIL and/or local agency files.

**REIMBURSEMENT OF EXPENSES**

Reimbursement for prearranged and authorized travel shall be in accordance with the policies of the PADD for travel by staff.

**INSURANCE COVERAGE**

Volunteer Insurance coverage, generally, will not be provided.

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**AFFIRMATIVE ACTION**

**POLICY AND PROCEDURES**

**POLICY**

The Area Agency on Aging and Independent Living shall operate in compliance with the regulations, as amended, issued by the Department of Commerce in implementing the Civil Rights Act of 1964. The AAAIL shall promote equal employment opportunities and prohibit discrimination in employment on the basis of ethnicity, race, color, religion, national origin, gender, age or handicap status not related to the job.

**PROCEDURES**

The AAAIL shall advise all employees and applicants for employment of this policy and shall make known to the public that employment opportunities are available on the basis of individual ability and will encourage all persons who are employed by the AAAIL to strive for advancement on that basis.

The AAAIL shall take affirmative action to ensure that qualified applicants are recruited and employed, and that employees are treated during their employment, without regard to race, color, religion, gender, national origin, age or handicapped status not related to ability to perform the job, and that such affirmative action shall include all terms and conditions of employment, such as: hiring, placement, upgrading, demotion, transfer, layoff and termination.

Per federal/state regulations:

All jobs, created as a result of the provision of federal and state funds to the AAAIL, shall be posted with the local Employment Office "Career Centers" and first priority for employment in these jobs shall be given to recipients of SSI when the applicant is qualified and all other factors are equal.

**PURCHASE AREA DEVELOPMENT DISTRICT  
AREA AGENCY ON AGING AND INDEPENDENT LIVING**

# SAMPLE CONTRACT

**Approvals:**

This Contract is subject to the terms and conditions as stated. By affixing their signatures below, the parties agree that electronic approvals may serve as electronic signatures. In addition, the parties verify that they are authorized to bind this agreement between parties and that they accept the terms of this agreement.

1<sup>st</sup> Party:

Purchase Area Development District  
1002 Medical Drive, P.O. Box 588  
Mayfield, KY 42066

\_\_\_\_\_  
Signature

Jeremy Buchanan\_\_\_\_\_

\_\_\_\_\_  
Signature

Kenny Wilson\_\_\_\_\_

Executive Director\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Chairman, Board of Directors\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

2<sup>nd</sup> Party:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name

Executive Director\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



\_\_\_\_\_  
Signature

Chairman, Board of Directors  
Title

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Date

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**Include registration of a Data Universal Numbering System (DUNS) identifier number if the amount of Federal funds awarded to the Second Party is \$25,000 or more.**

**Memorandum of Agreement  
between  
The Purchase Area Development District  
And**

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**Purchase Area Development District  
Area Agency on Aging and Independent Living  
1002 Medical Center Drive  
P.O. Box 588  
Mayfield, KY 42066**

**Telephone: 270-247-7171  
Fax: 270-251-6110**

**Cissy Fox, Director  
Area Agency on Aging and Independent Living  
email: [cissy.fox@purchaseadd.org](mailto:cissy.fox@purchaseadd.org)**

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**Attachment B — Protection of Personal Information Security and Breach Investigation Procedures and Practices Act**

## **Section 1—Administrative Overview**

### **1.00—Purpose and Background**

The Purchase Area Development District (PADD), pursuant to the Older Americans Act of 1965 (OAA), as amended by 910 KAR Chapter 1, has determined there is a necessity to enter into an agreement for the performance of the following functions within the Area Development District.

Title III B Support Services (Transportation, Telephone Reassurance, Health Promotion, Legal)

Title III C-1 Congregate Meals

Title III C-2 Home Delivered Meals

IIIB In-Home services Home Delivered Meals

Title III D Preventive Health

### **1.01—Issuing Office**

The Purchase Area Development District is issuing this Contract and is the only office authorized to change, modify, amend, alter, or clarify the specifications, terms and conditions of this Contract.

### **1.02—Communications**

The Contracts Manager named below is the point of contact for communications concerning contract issues.

### **1.03—Terminology**

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

- Proposer, Offeror, Contractor, Provider, Second Party, or Vendor
- Contract Specialist, Buyer, Purchaser, or Contract Officer
- Proposal, or Offer
- Commonwealth of Kentucky, Commonwealth, State of Kentucky, or State
- Fiscal Year will be defined as the Commonwealth fiscal year: July 1 through June 30
- Biennium will be defined as the Commonwealth biennium: July 1 of each even numbered year through June 30 of the next even numbered year.

### **1.04—Definitions**

1.-“AAAIL” means the Area Agency on Aging and Independent Living which resides within the ADD per KRS 147A.050.

2.-“ACL” means the Administration for Community Living

- 3.-“ADD” means Area Development District pursuant to KRS 147A.050, also referred to as “Agency”
- 4.-“ADRC” means Aging and Disability Resource Center programs which provides access to long term care options by using a wide range of community resources
- 5.-“-AoA” means the Federal Administration on Aging.
- 6.-“CHFS” or “Cabinet” means the Cabinet for Health and Family Services per KRS 205.204.
- 7.-“DAIL” means the Department for Aging and Independent Living.
- 8.-“Department” means the Department for Aging and Independent Living.
- 9.-“District” means Area Development District pursuant to KRS 205.455(4).
- 10.-“NSIP” means the Nutrition Services Incentive Program, which provides partial funding of meals to Kentucky’s seniors, designed to provide balanced and nutritious meals at home or in a congregate setting.
- 11.-“Older Americans Act” or “OAA” means the Older Americans Act of 1965 as amended.
- 12.-“PADD” means Purchases Area Development District
- 13.-“SAMS” means Social Assistance Management System which is a Harmony product currently being used as the State data system the main portal is located at: [www.Agingnetwork.com](http://www.Agingnetwork.com). Also referred to as “State Data System” or Kentucky Data System”.
- 14.-“SOP” means Standard Operating Procedures located at [www.chfs.ky.gov/DAIL/Standard Operating Procedures](http://www.chfs.ky.gov/DAIL/Standard%20Operating%20Procedures).
- 15.-“Title III” means programs under Title III of the Older Americans Act.
- 16.-“Title III Administration” means administration of the programs for elderly Kentuckians under Title III of the Older Americans Act.
- 17.-“Title III-B Support Services” Program means a service to provide community support to people 60 and older, pursuant to the Older Americans Act.
- 18.-“Title III-C1 Congregate Meals” Program means a meal is provided to an individual, age 60 and older, in a congregate or group setting pursuant to the Older Americans Act. “Congregate Meals” are meals served in a congregate or group setting at a variety of sites and serves older adults interaction needs in addition to nutrition.
- 19.-“Title III-C2 Home Delivered Meals” Program means a meal is provided to an eligible individual, in his/her place of residence, pursuant to the Older Americans Act. “Home Delivered Meals’ are provided to individuals who have health difficulties that limit their ability to obtain or prepare food.
- 20.-“Title III-D Preventive Health” Program means a service providing disease prevention and health promotion to people 60 and older, pursuant to the Older Americans Act (OAA).
- 21.-“Voucher” means a payment made directly to a vendor for the services specified.

## **1.05—Organization**

This contract is organized in the following manner:

Section 1 — Administrative Overview / General information regarding the objectives of the Contract.

Section 2 — Scope of Work / Description of tasks to be performed, Contractor responsibilities, deliverables, performance criteria, technology standards, and system requirements.

Section 3 — Terms and Conditions of the Contract / Terms and Conditions under which the Contractor shall perform this Contract.

Section 4—PADD Standard Terms and Conditions of Memorandum of Agreements

## **Section 2—Scope of Work**

### **2.00—Services Required**

#### **I.—General Requirements**

- A.—Comply with any and all requirements mandated by a particular funding source. The Second Party shall ensure that all services provided under this Contract are provided in accordance with any applicable state or federal statutes or regulations; any commitments and assurances set forth in grant awards with respect to goals, strategies, funding, and outcomes made by the Commonwealth 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 any federally-funded grant award terms and conditions, including federal reporting and expenditure requirements, for any federally-funded proposed project developed jointly by PADD AAAIL, and CHFS and submitted to a federal agency.
- B.—Ensure public awareness activities supported with state/federal funds and allocated to the Second Party through this contract contains the following statement: “This information is made possible by 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.
- C.—Ensure that all services made available under this Contract are provided and maintained on a continuing basis throughout the fiscal year, subject to availability of funds provided by CHFS/PADD.
- D.—Ensure that client eligibility has been determined, according to each program regulations, prior to the provision of services.
- E.—Assist the PADD, upon request, in training involving services and regulated agency skills and resources under this Contract.
- F.—Ensure compliance with 910 KAR 1:140 and KRS Chapter 13B – Hearing Procedures Relating to Area Agency on Aging Contractor Selection Actions.
- G.—Ensure client records are transferred appropriately, when necessary. Upon termination of this contract, copies of all appropriate records of all active clients and/or participant data shall be

provided to the new service provider in accordance with policy.

- H.—Ensure the retention of client-specific clinical records, in a secured location, for five (5) years after the last date of service and ensure their subsequent destruction by shredding or burning.
- I.—Provide information, upon request of PADD, concerning all activities performed pursuant to this Contract, including but not limited to, periodic data reporting and data system input concerning program activities or any data that is required by applicable state or federal law.
- J.—Maintain written personnel policies and procedures, including salary, conditions of employment, and job descriptions relative to all personnel, including those who provide services other than on a full-time basis and/or secured by processes other than direct employment.
- K.—Adhere to the approved budget, as set forth in the fiscal summary and Area Plan, The Second Party shall request written approval for any variation which will exceed ten percent (10%) in any cost categories (Personnel, supplies, etc.) of any program component budget total (Administration, etc.) PADD 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 the AAAIL after April 30.
- L.—Review service delivery objectives, accomplishments and expenditures, and submit to PADD a detailed analysis of accomplishments, service utilization levels and expenditures on a quarterly basis.
- M.—Provide or arrange for appropriate insurance coverage to protect volunteers from personal liabilities.
- N.—Ensure volunteers working with the programs are trained and those working as required staff meet all qualifications and maintain volunteer records including training, total number of volunteers, and the training hours provided.
- O.—Reporting all incidences or suspected incidences of abuse, neglect, and exploitation to the appropriate agencies, within 24 hours of learning of such incidences.
- P.—Maintaining written policy and procedures to ensure a plan for the continuity of services in the event that the PADD terminates a subcontractor. It is the PADD'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 PADD must ensure the continued operation of services affected by the termination of the provider. The PADD shall either perform the responsibilities of the terminated provider or assign responsibilities to another provider. It is the PADD's responsibility to secure all program/client records, facilities under program control, and equipment. Should a termination of a subcontract be necessary, the PADD must contact DAIL immediately and an emergency plan of action must be submitted for DAIL approval within 10 days of action, with a permanent plan of action submitted for approval within 90 days. [Sections 4.24, 4.39, 4.40, and 4.41 of this Contract shall also apply.](#)
- Q.—Assisting with voter registration per KRS 116.048(1)(d) and as described per SOP on voter registration (DAIL-VR-1.1).

R.—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.

**II**—For the following specific programs and/or services described below, the Second Party shall administer and/or provide the detailed services for the AOA Program Title III Administration, in accordance with the Older Americans Act of 1965, as amended. The Second Party will provide administration functions for programs for elderly Kentuckians.

The Second Party shall:

A.—Perform all the functions described in the PADD’s AAAIL approved Area Plan, budgets and service delivery objectives, which are hereby incorporated by reference as if fully set forth herein and shall be kept on file at the PADD.

B.—Complete the objectives for this Contract, as set forth in the Area Plan and Budget.

C.—Provide program participants an opportunity to voluntarily contribute to the cost of services by:

1.—Using contributions to increase the number of meals served and facilitate access to such meals.

2.—Ensuring that an eligible person is not denied service due to inability to contribute.

3.—Protecting the privacy of each older person with respect to contributions.

D.—Processing information, referrals, assistance, intake prescreening, assessments and care plans with all required information entered into the State Data System (SAMS).

E.—Provide assurances that the provision of service is based on:

1.—Documented eligibility as required by the Older Americans Act.

2.—The uniform service definitions established by the Administration of Aging as set forth in the Older Americans Act.

3.—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 bolder individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.

4.—Standard Operating Procedures (SOPs) provided by the Department for Aging and Independent Living, or any revisions thereto, during the Contract period.

5.—All applicable provisions of Title III Older Americans Act of 1965, as amended, and the regulations promulgated there under.

F.—Assist participants in taking advantage of benefits under other programs.



G.—Employ adequate qualified staff based on the number of program participants and the type of services provided.

H.—The Second Party shall permit staff of the PADD, Cabinet for Health and Family Services, persons acting for the Cabinet for Health and Family Services, and staff designated by appropriate Federal agencies to monitor and evaluate all programs and activities. Including Second Party files and operations, initiated under the Older Americans Act and all other programs for which the PADD AAAIL has administrative responsibilities.

The Second Party will make provisions for monitoring agents to interview program staff and clients during monitoring or program evaluations.

The Second Party will make provision for interview of clients by the PADD AAAIL, except where confidentiality requirements are applicable.

Respond to monitoring reports prepared by the PADD by submission of and compliance with a corrective action plan based on monitoring findings

Be responsible for fiscal or program exceptions established by evaluation, monitoring or audit and promptly settle any monitoring, fiscal and program audit exceptions by making direct payment, or reduction of future reimbursement, or by other methods approved by the PADD/Cabinet for Health and Family Services.

I.—Ensure compliance with all federal and state licensures requirements and all standards for any contracted service(s). The Second Party shall notify the PADD whenever such compliance is not met, within three (3) working days.

J.—Ensure compliance to all Standard Operating Procedures (SOPs) applicable to all services provided under this contract.

K.—Comply with all applicable Federal and State Equal Opportunity Laws.

L.—Comply with any applicable federal and state laws or regulations relating to services provided under this contract, including but not limited to 45 CFR Part 74, Part 78, Part 92, Part 96 and Circular OMV A-87 and A-133.

M.—Submit required program/service reports on or before the due dates as stated in this contract. Due dates are subject to change. Should a change be necessary, the PADD will notify the Second Party as soon as is possible prior to the new due date.

N.—Conduct and Submit, to AAAIL, client satisfaction survey results for all programs/services administered by the Second Party, by May 31<sup>st</sup> of each year.

O.—Ensure program data is submitted electronically to the AAAIL, or another agency designated by the AAAIL, on the schedule and in the format prescribes by the AAAIL as specified in Section 2.00 II and 2.00 III of 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 5<sup>th</sup> working day of the month following the month of service.

P.—Attend meetings scheduled by DAIL and AAAIL,

Q.—Utilize Aging and Disability Resource Center (ADRC) screening to determine potentially eligible clients for Title III programs, and to provide community resources to potential clients on the waiting list for Title III services. Case management services shall not be provided to potential clients on the waiting list.

**III.—ACL Program Title III-B Supportive Services**, in accordance with the Older Americans Act of 1965, as amended, provides for a program that provides transportation and senior center services to the elderly.

The Second Party shall: Perform all the functions described in the approved Area Plan, budgets and service delivery objectives, which are hereby incorporated by reference as if fully set forth herein and shall be kept on file at the PADD.

- A. Support those services identified as priority or priorities for the region on the area plan through Title III B funds.
- B.—Provide Title III B services in accordance with the OAA and DAIL-TIII-22.
- C.—In-home services shall only be contracted with those personal service agencies certified pursuant to 906 KAR 1:180.

**IV.—Administer the 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, and the Nutrition Services Incentive Program, the Second Party shall:

- A.—Perform all the functions described in the approved Area Plan, budgets and service delivery objectives, which are hereby incorporated by reference as if fully set forth herein and shall be kept on file at the PADD.
- B.—Follow the requirements under the Aging and Disability Resource Center for all clients as required for specific services.
- C.—Complete the objectives for this Contract, as set forth in the Area Plan and Budget.
- D.—Provide assurances that the provision of service is based on:
  - 1.—The uniform service definitions established by the Administration of Aging as set forth in the Older Americans Act and 910 KAR 1:190.
  - 2.—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.
  - 3.—Standard Operating Procedures (SOPs) provided by the PADD/DAIL, or any revisions thereto, during the Contract period.
  - 4.—Comply with all applicable provisions of Title III of the Older Americans Act of 1965, as amended, and the regulations promulgated there under.

E—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.

F.—Administer the **Congregate Meals Program** as follows:

1.—Provide one (1) hot or nontraditional congregate meal per day, five (5) or more days per week in each county (except in a rural area where such frequency is not feasible and a less frequency is approved in writing by the Department (42 U.S.C. 3030e).

2.—An exception request is required to serve congregate meals less than five (5) days per week within a rural area. The Second Party shall submit the exception request as part of the Second Party's area plan in the Waiver and Special Program Approvals section. If an area plan has already been approved by the PADD for a fiscal year, the Second Party shall submit an amended area plan to comply with this requirement. An explanation of the reason for the exception request will include the following:

- a. Administrative reason for the request;
- b. Cost effectiveness of the request;
- c. Number of days requested to serve in the rural county;
- d. Reason for serving less congregate meals than five (5) days per week;
- e. Listing of the number of participants affected by this particular change or action;
- f. Whether serving less than five (5) days per week is short term or long term;
- g. Date the AAAIL Project Review and Aging Committee approved the change;
- h. Date the PADD Board approved the change;
- i. The provisions that are proposed to continue services for the participants in the area currently being served;
- j. Average number of congregate meals served daily during last reporting period (five (5) day average);
- k. If changing or reduction of congregate meals is due to low attendance, provide documentation of outreach and publicity activities undertaken to promote attendance (include when the activity was conducted, who conducted the activity, and the number of potentially eligible persons contacted);
- l. Cost analysis for proposed plan (cost analysis on keeping services going versus the change, costs versus serving congregate meals less than five (5) days per week);
- m. Location and distance of nearest site;
- n. How transportation will be provided to the nearest site; and
- o. Proposed effective date for the change.

- 3.—All exception requests must be approved by the AAAIL before the second party can serve congregate meals less than five (5) days per week in a rural area.
- 4.—Provide opportunities for social engagement at senior centers or on field trips.
- 5.—Encourage seniors to engage in volunteer roles that will contribute to their overall health and well-being.

G.—Administer the **Home Delivered Meals Program** as follows:

- 1.—Provide one (1) hot or nontraditional Home Delivered meal per day, five (5) days or more per week.
- 2.—Home delivered meals can only be served to a participant who is unable to attend a congregate 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. A copy of this documentation shall be stored in a secure location at the provider site.
- 3.—Follow the requirements under the Aging and Disability Resource Center on process including intake, prescreening for all clients and Assessment and care plans as required for specific services.
- 4.—For a traditional home delivered meal, the Second Party shall train and monitor delivery staff to ensure that the meal participation or designee acknowledges delivery of the meal.

H.—**Nutrition Service Provider** shall meet responsibilities in accordance with 910 KAR 1:190:

- 1.—**Nutrition Screening** shall be performed using the Nutrition Screening Questions required by the Administration on Aging and provided by the state data system. Responsibilities shall include:
  - a.—The nutrition screening shall be completed when each participant is added to the program and at least annually thereafter.
  - b.—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.
  - c.—The following items shall be recorded at the site where the screening was completed:
    - i.—The need for further interventions as determined by a score of six (6) or greater.
    - ii.—Interventions provided based on score.
    - iii.—Follow up on previous interventions at the next screening must be recorded.
- 2.—**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 plan shall be developed and approved by the registered dietitian or certified nutritionist. The annual education plan shall be available at all meal sites and shall include staff qualifications required to perform each activity. The plan should include the following topics:

- a.—Nutrition and its relevance to health promotion and disease prevention are included in the education plan.
- b.—Consumer approaches to food safety and food purchasing are included in the education plan.
- c.—Food fads and diets are included in the education plan.
- d.—Physical activity are included in the education plan.
- e.—Activities to modify behavior and improve health literacy, including providing information and optimal nutrients and included in the education plan.

3—The Second Party will provide the AAAIL with statistical and other Information necessary for state reporting requirements.

I.—Reporting 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.

J.—Providing emergency meals that meet the nutrition requirements of 910 KAR 1:190.

K.—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.

L.—Using NSIP funds to expand meals.

M.—Ensuring that contract meets all requirements of 910 KAR 1:190 including monitoring contract compliance twelve times per year with results submitted to PADD/DAIL.

N—Ensure the following Core Performance Measures for the Nutrition Program for Older Person are met:

1. Ensure 100% of the monthly reports shall be submitted to the PADD by the 5<sup>th</sup> working day of each month. Also ensure all required data is entered into the State Data System (SAMS) prior to submission of required reports, no later than the 3<sup>rd</sup> working day of the month.
2. Ensure 100% of completed assessments shall have the nutrition screening completed and referrals made for nutrition assistance based on a score of 6 or more.
3. Ensure 100% that an educational program plan is in place that includes at least one (1) monthly educational session on required topics.

4. Ensure 100% of program monitoring shall be completed and submitted to the PADD by April 15 of every contract year.

**V.—AOA Title IIID Preventive Health** is a program to provide, as outlined in section 361 of the OAA, only for disease prevention and health promotion programs and activities which have been demonstrated through rigorous evaluation to be evidence-based and effective, the Second Party shall:

A.—Provide Title III D services in accordance with Section 361 of the OAA and DAIL-HP-DP-12.

B.—Provide only programs that have received prior approval from DAIL.

Walk With Ease

Chronic Disease Self-Management

Matter of Balance

Bingocize

## **2.01—Reporting Requirements**

The Second Party shall meet the following Reporting Requirements:

**I.—**The Second Party shall ensure all reported data is documented in SAMS. The SAMS report information shall match the information submitted on the backup report for each program. SAMS information shall include:

A.—All data required by the Aging and Disability Resource Center.

B.—Complete client record, including intake, screening, assessment, plan of care and service units.

C.—Client prescreening, intake, assessment and care plan information shall be entered prior to the start of service.

**II.—**The Second Party shall complete and submit a reconciled year-end budget back-up report including programmatic and administrative cost categories to the PADD by July 9<sup>th</sup>.

**III.—**The Second Party shall complete and submit monthly a waiting list using the form provided by the PADD/DAIL. A Waiting List is defined as: A formal list of persons determined eligible, however not yet receiving services.

1.—Community resources shall be provided and documented for persons placed on the waiting list.

2.—Policy and procedure shall be in place for prioritizing and purging the waiting list.

**IV.—**For the Nutrition Program the Second Party shall ensure cost effective meals through the following reports, to be completed and submitted to the PADD/AAAIL monthly:

1.—Track and compare over produced meal numbers for all providers. This would include all meals produced but not consumed by a participant.

- 2.—Monitor food purchasing practices to ensure best cost.
- 3.—Monitor delivery times and routes.
- 4.—Monitor HDM clients not home to receive meals.
- 5.—Review to ensure accuracy and compliance of provider invoices.
- 6.—Maximize use of volunteers and other unpaid staffing options. Track volunteer numbers and service time.

V—The Second Party shall be responsible for the following:

- 1.—Conducting the client satisfaction survey and submit compiled data to PADD/AAAIL by May 31<sup>st</sup>.
- 2.—Submitting written evaluation of findings, corrective action plans (if necessary), desk-top monitoring and any follow-up information from sub-contract monitoring, if applicable, to the PADD/AAAIL no later than April 30<sup>th</sup> of each year.

### **2.03—Pricing and Payment Requirements**

Payments by the PADD to the Second Party shall be conditioned upon receipt of appropriate, accurate, and actual invoices along with backup documentation including source documentation, submitted by close of business on the 5<sup>th</sup> working day of each month following the month of service to the PADD by the Second Party, as well as the Second Party's continued satisfactory performance, as determined by the PADD, and shall be subject to the availability and allocation of local agency or governmental funds, or state or federal funds necessary to finance the performance of the services described in this Contract. If invoices are not received by the 5<sup>th</sup> working day, no approval or payment will take place until the following month's submission of invoices. In this event individual monthly invoices are required and will not be accepted in a combined amount on a single invoice. If notification of incorrect invoices is received, the Second Party will have two (2) business days to respond. If invoices are not correct in totality (financial and programmatic) within seven (7) business days from the beginning of the month, payments will not be made until the following month with the submission of that month's invoice. This policy excludes the procedures for the month of June. June invoices shall be due to the PADD in compliance with the Commonwealth's fiscal year close out procedure. A closing memo will be issued to Second Party upon notification to First Party by the Commonwealth. All services billed must be documented, as required, in the State's client Data Management System (SAMS), or other systems required by specific programs. Required data on invoices or invoice backup forms must match that data recorded in SAMS. Payment by the PADD to the Second Party shall be made only after the Executive Director and the Board of Directors of the PADD have approved the Contract.

Reimbursement of actual allowable expenditures shall be made in accordance with the approved budget.

### **2.04—Agency Responsibilities**

The PADD may:

- 1.—Provide technical assistance for successful completion of the tasks outlined in this Contract.
- 2.—Provide invoice forms and instructions to complete the Contract requirements.

3.—Ensure that all policy decisions, changes, interpretations, and reinterpretations affecting this Contract are distributed promptly to the Second Party.

4.—Maintain administrative regulations and procedures to assist in the implementation of Older Americans Act programs and other appropriate programs that the PADD deems necessary and furnish such regulations and procedures in writing to the Second Party

**II.**—Ensure that the following Core Performance Measures for the Nutrition Program for Older Persons are met as follows:

A.—Ensuring 100% of the Second Party monthly reports shall be submitted to the PADD by the 5<sup>th</sup> working day of each month. All required data is entered into the State Data System (SAMS) prior to submission of required reports.

B.—Ensuring 100% of participants annually have the nutrition screening completed and referrals made for nutrition assistance based on a score of 6 (six) or more.

C.—Ensuring 100% of nutrition program providers will have an educational program plan in Place that includes at least 1 monthly educational session on required topics.

## **2.05—Related Documents and Materials Incorporated by Reference**

### **[Older Americans Act & the Aging Network](#)**

### **[OLDER AMERICANS ACT AMENDMENTS OF 2006](#)**

#### **[About ACL](#)**

**<http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf>**

**<http://www.hhs.gov/asfr/ogapa/aboutog/hhsgps107.pdf>**

**<http://www.hhs.gov/opa/pdfs/45-cfr-92.pdf>**

**<http://chfs.ky.gov/NR/rdonlyres/57FCAB4D-6AD0-4203-8A4A-B1AD75EDC014/0/DAILSOPCH1GENERALADMINISTRATIONCombined.pdf>**

**<http://chfs.ky.gov/NR/rdonlyres/9E0DD746-EF6E-412F-8459-8417ECE47A41/0/DAILSOPChapter9FinancialManagementCombined.pdf>**

**<http://chfs.ky.gov/NR/rdonlyres/727B354E-B2FC-406D-83FB-496D027EA621/0/DAILSOPCH14KYADRCCCombined.pdf>**

**<http://chfs.ky.gov/NR/rdonlyres/DA08F05E-5094-45C0-8A52-67D77790FF36/0/DAILSOPCH22TITLEIIISUPPORTIVESERVICESCombined.pdf>**

**[200 KAR 2:006. Employees' reimbursement for travel.](#)**

## **2.06—Information Technology Requirements**



f. The Second Party shall comply with the **Financial Management System Requirements**, which includes establishing and/or maintaining a financial management system that:

A.—Provides 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 the applicable documents: Office of Management and Budget (OMB) Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations); and the federal agency's grant management common rule.

B.—Provides complete records that identify the source and application 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.—Maintains effective control over and accountability for all funds, property, and other assets. The Second Party 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.—Complies with procedures for determining reasonableness and allowability of costs in accordance the guidelines for allowable costs found in the applicable documents: OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations); and the federal agency's grant management common rule.

E.—Maintains accounting records that are supported by source documentation.

F.—Ensures that no other funds or assets of the Agency shall be co-mingled with the funds provided for the 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.—Monitors and responds 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 the PADD.

H.—Uses 45 CFR Part 92 as the basis for determining any "allowable cost," except as otherwise specified in this Contract.

I.—Ensure the creation, transmission, storage, and other use of electronic signatures and documents comply with the requirements established in KRS 369.101 to 369.120 and,

Developing and implementing a written security policy that shall:

Be adhered to by each of the Second Party's employees, officers, agents, and contractors;

Identifying each electronic signature for which an individual has access; and

Ensuring that each electronic signature is created, transmitted, and stored in a secure fashion.

Developing a consent form that shall

Be completed and executed by each individual using an electronic signature  
Attest to the signature's authenticity, and

Include a statement indicating that the individual has been notified of their  
responsibility in allowing the use of the electronic signature.

Provide the PADD/AAAIL a copy of the Second Party's electronic signature policy upon  
implementation and any revisions made to the policy, and have available at monitoring  
the signed consent forms and the original filed signature(s).

### **Section 3—Terms and Conditions of the Contract**

#### **3.00—Beginning of Work**

The Contract is not effective and binding until approved by the Executive Director and the Chairman of the Board of the PADD and filed with the AAAIL. The Contractor shall not commence any billable work until a valid Contract has been fully executed. 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.

#### **3.01—Contract Components and Order of Precedence**

The PADD's acceptance of the Contractor's offer indicated by the issuance of a Contract Award by the Area Agency on Aging and Independent Living and approved by the Executive Director and the Chairman of the Board of the PADD and filed with the AAAIL, shall create a valid Contract between the Parties consisting of the following:

1. Any written Agreement between the Parties;
2. The Finance and Administration Cabinet Manual of Policies and Procedures contained in 200 KAR 5:021 and the Office of Material and Procurement Services' General Conditions And Instructions For Solicitations And Contracts contained in FAP110-10-00.

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

#### **3.02—Term of Contract**

The initial Term of the Contract shall be for a period from 7/1/2014 to 6/30/2015.

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

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

Pursuant to KRS 45A.210(1) and 200 KAR 5:311, no modification or change of any provision in the Contract shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Contractor and the PADD, and incorporated as a written amendment to the PADD prior to the effective date of such modification or change pursuant to KRS 45A.210(1) and 200 KAR 5:311.

Memorandum of Understanding, written clarification, and/or correspondence shall not be construed as amendments to the Contract.

If the Contractor finds at any time that existing conditions made modification of the Contract necessary, it shall promptly report such matters to the Contracts Manager for consideration and decision.

### **3.04—Changes in Scope**

The PADD 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 PADD through the process described in **Section 3.03—Changes and Modifications to the Contract**.

### **3.05—Cancellation**

The PADD 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 Second Party has the same such right to terminate said agreement, upon thirty (30) days written notice served on the PADD by registered mail or certified mail outlining the reasons for the cancellation.

### **3.06—Contract Conformance**

If the Contracts Manager determines that deliverables due under the Contract are not in conformance with the terms and conditions of the Contract and the mutually agreed-upon project plan, the Contracts Manager may request the Contractor to deliver assurances in the form of additional Contractor resources and to demonstrate that other major schedules will not be affected. The PADD shall determine the quantity and quality of such additional resources and failure to comply may constitute default by the Contractor.

### **3.07—Notices**

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

After the Award of Contract, all programmatic communications are to be made to the Agency Contact Person listed below with a copy to the Contracts Manager as defined in Section 1.02.

Ann Ponder Simpson, Director  
Area Agency on Aging and Independent Living  
Purchase Area Development District  
1002 Medical Drive, P.O. Box 499  
Mayfield, KY 42066  
email: [ann.ponder@purchaseadd.org](mailto:ann.ponder@purchaseadd.org)

With copy to:  
Tracey Thornton, Contracts Manager  
Area Agency on Aging and Independent Living  
Purchase Area Development District

1002 Medical Drive, P.O. Box 499  
Mayfield, KY 42066  
email: [tracey.thornton@purchaseadd.org](mailto:tracey.thornton@purchaseadd.org)

After the Award of Contract, all communications of a contractual or legal nature are to be made to the Contracts Manager.

Tracey Thornton, Contracts Manager  
Area Agency on Aging and Independent Living  
Purchase Area Development District  
1002 Medical Drive, P.O. Box 499  
Mayfield, KY 42066  
email: [tracey.thornton@purchaseadd.org](mailto:tracey.thornton@purchaseadd.org)

With copy to:  
Ann Ponder Simpson, Director  
Area Agency on Aging and Independent Living  
Purchase Area Development District  
1002 Medical Drive, P.O. Box 499  
Mayfield, KY 42066  
email: [ann.ponder@purchaseadd.org](mailto:ann.ponder@purchaseadd.org)

### **3.08—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 as specified in Section 3.02. The Contract is not effective and binding until approved by the Executive Director and the Chairman of the Board of Directors of the PADD.

The PADD will make payment within thirty (30) working days of receipt of the Contractor's invoice or of acceptance of goods and/or services in accordance with KRS 45.453, KRS 45.454 and KRS 44.010. Invoices for payment shall be submitted to the financial liaison via email the individual liaison assigned to the PADD by the Department for Aging and Independent Living, or his/her representative.

Payments are predicated upon successful completion and acceptance of the described services and delivery of the required documentation.

### **3.09—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 PADD 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.

### **3.10—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 either the PADD or the Commonwealth of Kentucky.

### **3.11—No Required Use of Contract**

This contract does not guarantee any minimum use of services. The PADD 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.

## **Section 4—PADD Standard Terms and Conditions for Memorandum of Agreements**

### **4.00—The Contract**

PADD 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.

### **4.01—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.

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

The Second Party 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 Executive Director and Chairman of the Board of Directors of the PADD and filed with the Area Agency on Aging and Independent Living in accordance with KRS Chapter 45A.690-.725. PADD shall provide timely notice to the Second Party of disapproval of this Contract or any amendment thereto under KRS Chapter 45A.690-.725.

### **4.03—Extension Periods and Amendments to Contract**

The terms and conditions of this Contract may be extended or amended according to the provisions of KRS Chapter 45A.690-.725, and are subject to the approval of the Executive Director and Chairman of the Board of Directors of the PADD and filed with the AAAIL. The Second Party may request an amendment by submitting a written request to the Purchase Area Development District, Area Agency on Aging and Independent Living, P.O. Box 588, Mayfield, KY 42066. Amendments are not in effect until written approval is received from the PADD. The Second Party shall not request an amendment for the last sixty (60) days of the Contract period.

### **4.04—Funding**

This Contract is expressly conditioned on the availability of state and federal appropriated funds. The PADD 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 the PADD. The Second Party shall have no right of action against the PADD in the event that the PADD is unable to

perform its obligations under this Contract as a result of the suspension, termination, withdrawal, or failure of funding to the PADD or lack of sufficient funding to the PADD 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 the PADD for the purpose of making payments hereunder, then the PADD shall be authorized to make payment to the extent possible and/or terminate this Contract in accordance with Section 4.40 Provisions for Termination without obligation for the payment of any cancellation or termination charges and without any other obligation or liability hereunder.

#### **4.05—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 the PADD, Area Agency on Aging and Independent Living.

#### **4.06—Bankruptcy**

In the event the Contractor becomes the subject debtor in a case pending under the Federal Bankruptcy Code, the PADD'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 PADD for the monetary damages incurred as a result of such default, and
3. provides adequate assurance of future performance, as determined by the PADD.

#### **4.07—Contractor Cooperation in Related Efforts**

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

#### **4.08—Notice**

Unless otherwise provided, all notices, consents, and other communications required and/or permitted by this Contract shall be in writing as specified in **Section 3.07** and shall be deemed given to a Party when:

Delivered to the appropriate address by hand, United States Postal Service, or by a nationally recognized overnight courier service (costs prepaid);

Sent by facsimile with confirmation of transmission by the transmitting equipment; or

Received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses and facsimile numbers and marked to the attention of the person by title designated below (or to such other address, facsimile number, or person) as a Party may designate by notice to the other Party:

If personally delivered, such notice shall be effective upon delivery and if mailed as provided for above, such notice shall be deemed effective three (3) calendar days after it is placed in the mail.

#### **4.09—Headings**

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

#### **4.10—Severability**

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

#### **4.11—Indemnification**

The Second Party shall indemnify and hold harmless the PADD 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 Second Party and or its Subcontractor(s); (c) the policies and procedures of the Second Party, specifically including all Second Party employment practices employed by Second Party during the term of this or any prior Agreement with the PADD; (d) any dishonest, fraudulent, criminal, or negligent or unauthorized acts or errors or omissions which are committed by Second Party or any of Second Party's employees or agents or Subcontractors; (e) the publication translation, reproduction, delivery, performance, use or disposition of any data produced by the CHFS/PADD in an unauthorized manner, provided that such action was not taken by Second Party or as a result of the express written request of the PADD; or (f) Second Party's failure to comply with any applicable state or federal laws or regulations.

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

#### **4.12—Sovereign Immunity**

The Parties expressly agree that no provision of this Contract is in any way intended to constitute a waiver by the PADD of any immunities from suit or from liability that the PADD may have by operation of law.

#### **4.13—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 the PADD shall have the right to obtain the necessary services elsewhere in the event of such non-performance by the Second Party and the Parties shall negotiate in good faith any appropriate offset to the compensation payable under this Contract. The Second Party shall cooperate and

shall require that any Subcontractor cooperate with the PADD 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.

#### **4.14—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.

#### **4.15—Code of Ethics**

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

#### **4.16—Influence on Purchasing and Other Business Transactions**

The Second Party shall not attempt, in any manner, to influence any business transactions to be unlawful in any way or respect, nor attempt in any way to influence specifications for or purchasing of services, commodities, or equipment by the Commonwealth of Kentucky or the PADD.

#### **4.17—Notices and Pamphlets**

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

#### **4.18—Service Delivery Requirements**

All services provided by the Second Party 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 in all CHFS grant awards with respect to goals, strategies, funding, and outcomes made by the Commonwealth 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 CHFS/PADD and submitted to a federal agency.

#### **4.19—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 Second Party, 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 Second Party 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 Second Party 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.

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

The Second Party shall not begin work on this contract until the Executive Director and Chairman of the Board of Directors of the PADD have approved the contract and until the contract has been filed with the AAAIL.

The PADD shall make payment to the Second Party only after:

1. The Contract is approved by the Executive Director and Chairman of the Board of Directors of the PADD and filed with the AAAIL;
2. An invoice is submitted in the form described herein.

Once approved, the PADD shall make payment to the Second Party within thirty (30) business days of receipt of accurate, acceptable and timely invoices, as specified in the Contract, submitted by the Second Party under the terms and conditions of the Contract. Payment is contingent upon Second Party's continued satisfactory performance throughout the duration of contract, as determined by the PADD.

The invoice shall contain at a minimum the following information:

- Description of the service performed;
- Itemized statement of costs for a cost reimbursement contract;
- Dates and hours, if applicable, of the services provided; and
- Other information as required in this Contract.

The PADD shall reimburse the Second Party for services rendered only. If, for any reason, the Second Party is unable to render services, the PADD shall not be liable for payment to the Second Party for the time period in which the Second Party does not provide the services for which the PADD contracted. The PADD shall reimburse the Second Party 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.

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

Pursuant to KRS 45A.725, LRC has established policies which govern rates payable for certain professional services. These are located on the LRC webpage (<http://www.lrc.ky.gov/Statcomm/Contracts/homepage.htm>) and would impact any contract established under KRS 45A.690 et seq., where applicable.

#### **4.21—Total Amount of Funds and Budget Revisions**

The Second Party shall not be reimbursed for any expenses other than those expressly prescribed in this Contract and other Attachments incorporated herein by reference. The PADD 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 the PADD and the Second Party and determined as soon as feasible before the end of the scope of work as set forth under the Contract.

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

#### **4.22—Travel and Travel Hourly Rate**

The Second Party 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). It is the intent of the Cabinet that the contractor's employees and the subcontractor's employees are reimbursed for travel expenses at rates not to exceed the travel reimbursement rates authorized for state employees. 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.

#### **4.23—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 PADD. 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.

#### **4.24—Responsibility for Subcontractor Contract Requirements**

The Second Party shall have a Contract with any subcontractor that the Second Party 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 Second Party'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 Second Party'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 Party and to the PADD, if requested, copies of personnel records and documentation of employees' compliance with the terms and conditions of this Contract.

No obligation or right of Second Party under this Contract shall be subcontracted to another, without prior written approval, of the PADD after the PADD has had the opportunity to review all contract documents setting forth the terms and conditions for the subcontract. Second Party, upon the cabinet's request, shall submit the subcontract for approval to: Purchase Area Development District, Area Agency on Aging and Independent Living, P.O. Box 588, Mayfield, KY 42066.

#### **4.25—Subcontractor Monitoring Requirements**

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

Second Party further understands and agrees, and shall ensure that any Subcontractor understands and agrees, that PADD 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.

#### **4.26—Cost Principles, Requirements and Limitations**

The Second Party shall conform to the cost principles as set forth in 200 KAR 5:317; 45 C.F.R Parts 74, 92, 96; 48 C.F.R. Part 31 and Contract Cost Principles and Procedures, Office of Management and Budget Circular A-122, *Cost Principles for Non-Profit Organizations* (as revised), Circular A- 21, *Cost Principles for Educational Institutions* (as revised) and/or OMB Circular A-110, *Uniform Administrative Requirements for Grants and Contracts with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations* unless excluded by Federal laws or regulations, as applicable.

#### **4.27—Requirements and Limitations on Indirect or Administrative Cost Requirements**

When applicable, pursuant to OMB A-122 or OMB A-21, the Second Party shall maintain a written indirect cost allocation plan of direct and/or indirect costs if, in instances where the Second Party operates more than one (1) project, service, program, or activity. This provision is applicable to contracts that are of a cost reimbursement type.

The cost allocation plan shall be consistently and uniformly applied except where it is determined in writing by the PADD to be in the best interest of the PADD to do otherwise.

In the event the Second Party has an indirect cost allocation rate and/or plan in operation that has been accepted and approved by the Second Party's cognizant federal agency, CHFS/PADD shall recognize the cost allocation plan for purposes of recording and reporting reimbursable costs to the extent that such costs are allowable and within the administrative and/or indirect cost limitation as set forth in the approved budget for each funding source of this Contract. Two (2) copies of the approved indirect cost allocation rate and/or plan shall be furnished to the PADD.

#### **4.28—Financial Record Retention**

The Second Party 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).

#### **4.29—Access to Records, Books, and Documents**

The contractor, certifies that it is in compliance 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(9) agrees that the contracting agency, 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 contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)€. 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.

#### **4.30—Audit Requirements**

In the event that the contract is funded, in whole or part, by federal funds and the Second Party is a non-federal entity, the Second Party shall have a single audit conducted in accordance with Government Auditing Standards (GAS), Generally Accepted Auditing Standards (GAAS), and OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations* issued by the Comptroller General of the United States and the Office of Management and Budget as amended. See current requirements at <http://www.whitehouse.gov/omb/circulars/index.html>.

The audit report's accompanying financial statements shall be issued in accordance with Generally Accepted Accounting Principles (GAAP) and reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited.

The audit shall cover each fiscal year period, and a copy of the Second Party's audit report(s), federal schedule of expenditures, supplemental information by cost center and/or program and audit findings with corrective action plan shall be submitted to the agency contact identified in **Section 3.07**, no later than four (4) months after the fiscal year end.

The audit report shall contain a supplemental schedule which summarizes Aging funds received by the Second Party. The schedule shall 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. All matching funds, local cash, in-kind, and program income, shall also be separated out into a separate columns. A Final, Audited, Invoice must also be turned in with the audit report.

Should the audit report refer to a separate management letter of findings, the Second Party shall include a copy of the management letter with the audit report and comments and/or a corrective action plan. All material findings shall be reported in the audit section of audit findings and shall include the management's response and/or corrective action as required by OMB Circular A-133.

The audit report shall include a schedule of expenditures of federal awards as stipulated by OMB Circular A-133 requirements and contain the following:

The Catalog of Federal Domestic Assistance (CFDA) number;

CFDA title/description; and

Pass-through entity's name and contract number.

The audit report shall include supplemental information of all federal grant and/or award expenditures by cost centers and/or programs identifying all administrative and indirect cost for each state fiscal year. The Second Party shall include in the supplemental information a list of their sub recipients of federal monies received through this Contract and provide the following:

Sub recipients name;

CFDA number, title/description;

Sub recipient's contract number; and

Sub recipient's expenditures.

#### **4.31—Response/Compliance with Audit Findings**

The Second Party shall take action to ensure its or a subcontractor's compliance with or correction of any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle relating to the services and deliverables or any other deficiency contained in any audit, review, or inspection conducted under this section. This action will include Second Party's delivery to the PADD, for PADD approval, a Corrective Action Plan that addresses deficiencies identified in any audit(s), review(s), or inspection(s) within thirty (30) calendar days of the close of the audit(s), review(s), or inspection(s).

The Second Party shall bear the expense of compliance with any finding of noncompliance under this Section that is:

Required by a Kentucky or Federal law, regulation, rule or other audit requirement relating to Second Party's business;

Performed by Second Party as part of this Contract; or

Necessary due to Second Party's noncompliance with any law, regulation, rule, or audit requirement imposed on Second Party.

#### **4.32—Equipment and Furniture**

The Second Party 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.

#### **4.33—Property of CHFS/PADD**

Property purchased by CHF/PADD 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 CHFS/PADD 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 CHFS/PADD. Any Capital Expenditures of \$5,000 or more with Federal Dollars must also have the Federal Agency Prior Approval before the Federal government will allow the costs in accordance with 2 CFR Part 225 Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87). All computer and information technology equipment purchases, regardless of cost, require prior approval from the Office of Technology Services and must comply with state technology standards. All required prior approvals shall be obtained by e-mailing the Contract Specialist referenced in Section 3.07 of this contract. This property will remain as such, unless otherwise set forth in this Contract or other controlling documents incorporated herein by reference.

#### **4.34—Property Control Ledger/Logs**

The Second Party 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, a copy of the information that follows must be provided immediately to the PADD for such that a bar-coded Asset Tag can be assigned for all items with a cost of \$500 or more. 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 and state building number when applicable; and
- g) Name of individual responsible for the equipment.

If the second party fails to report the required information, loss of the item will be at their expense.

If there is a change to the information above during the course of this contract, a CHFS 117 is required to be submitted to the PADD.

#### **4.35—Requirement of Inventory**

##### **f. Inventory Tracking**

The Second Party shall conduct a complete, physical inventory of all equipment and/or furniture provided by CHFS/PADD and/or purchased with funds from this contract and provide such to the PADD by February 1<sup>st</sup> of each year unless otherwise stated herein. Said findings shall include the information in section 4.34 as well as acknowledgement that the item was located or missing, and where applicable the steps taken to locate the item and/or report such to the police. If an item is/has been transferred to another location or there is a custodian change, a CHFS-117 form is to be immediately completed and routed to the PADD, but no later than February 1<sup>st</sup>, or as otherwise stated, with the corresponding inventory.

##### **f. Loss/Destruction**

The Second Party shall immediately notify the PADD, immediately if an item purchased by CHFS/PADD is damaged, missing, or stolen. In compliance with KRS 45.313, the Second Party shall forward in writing to the PADD 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. The PADD will immediately notify the Agency Property Officer and the DFM, such that the proper steps can be taken to document/claim this loss to support replacement of the item if possible.

##### **f. Surplus**

All state owned property and supplies no longer needed, may be declared surplus and disposed of upon prior approval from the PADD. The PADD, Office of Information Technology staff are responsible for sanitizing all computer equipment prior to disposal. Upon identification of items to be surplus or returned, the Second Party shall complete a B-217 and mail it to the PADD within thirty (30) calendar days when any of the following occurs:

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

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

As soon as possible, but no later than five (5) business days of terminating this contract for any reason, the Second Party shall deliver to the PADD a complete and current inventory, including the information referenced in Section 4.34, of any and all of the Cabinet'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.

If needed, both the CHFS 117 and 217 forms can be obtained by contacting your Contract Specialist listed in Section 3.07.

#### **4.36—Maintenance of Insurance**

During the term of this Contract, the Second Party 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 Second Party's business judgment to provide adequate coverage against losses and liabilities attributable to the respective acts or omissions of the Second Party 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 Second Party and any Subcontractor is not self-insured, each shall, in any event, name the CHFS/PADD as an additional insured on any policy of coverage, with the exception of the workers compensation and any reinsurance. The Second Party and any Subcontractor shall notify the PADD of the evidence of insurance coverage within five (5) business days of coverage. Notice shall be sent in writing to the PADD.

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

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

Second Party shall notify the PADD within five (5) business days of any cancellation or interruption of Second Party or Subcontractor's insurance coverage. The PADD shall require in any subcontracts that the Subcontractor provide such notice within five (5) business days the Second Party and the PADD. Second Party shall assure and require that any Subcontractor assure that insurance is in effect at all times during the life of this Contract. If their respective insurance coverage expires at any time during the term of this Contract, the Second Party and any Subcontractor shall provide at least thirty (30) calendar days prior to the expiration date, to the extent possible, a new Certificate of Insurance evidencing coverage as provided herein for not less than the remainder of the term of this Contract.

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

Any proposed research project undertaken pursuant to the terms and conditions of this agreement that involves human subjects shall be approved by the Cabinet for Health and Family Services Institution Review Board (CHFS IRB) prior to involving any human subjects or their records, in accordance with 920.KAR 1:060.

#### **4.38—Scientific Misconduct**

The Second Party 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 50.101 to 50.104 and 900 KAR 1:080 as amended, and shall be made available, upon request, to the PADD. The Second Party shall immediately report to the PADD any activity reported to the Second Party under these terms and conditions. Notice shall be sent in writing to the PADD.

#### **4.39—Intellectual Property**

The Second Party agrees that any formulae, methodology, other reports and compilations of data provided by CHFS/PADD to the Second Party 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 Second Party further agrees that any formulae, methodology, other reports and compilations of data prepared or produced by the Second Party 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 Second Party 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.

#### **4.40—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 Second Party is in default of its contractual obligations, after the PADD has provided the Second Party written notice of the identified deficiencies and a specified time to cure;

For convenience of the PADD by providing the Second Party thirty (30) calendar days written notice of termination;

Immediately for cause; or

Upon less than thirty (30) calendar days' notice to the Second Party, upon written determination of the PADD.

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



#### **4.41—Turnover Assistance**

Upon receipt of notice of termination of the Contract from PADD, the Second Party shall provide any turnover assistance reasonably necessary to enable the PADD or its designee to effectively close out the Contract and move the work to another vendor or to perform the work by itself. If the turnover assistance required by the PADD necessitates additional costs to be incurred by the Contractor not covered by the agreement, the PADD will reimburse such costs as allowable by funding.

#### **4.42—Remedies for Breach**

It is agreed by the Parties that in the event of breach of contract by the Second Party, the PADD 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 the PADD 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 Second Party to the PADD for noncompliance as provided for in this Contract.

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

The Second Party certifies the following by signing this Contract:

That neither it nor its principals and/or subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;

Where the prospective recipient of federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall submit an explanation in writing to the PADD; and

That should Second Party or its principals, and/or its subcontractors become debarred suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency, it shall immediately by telephone and within three (3) business days in writing notify the PADD of same.

#### **4.44—Licensure, Certification, and Registration**

The Second Party 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 the PADD.

#### **4.45—Permits, Licenses, Taxes and Commonwealth Registration**

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.

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

The Second Party certifies that the Second Party is legally entitled to enter into this Contract with the PADD, 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.

#### **4.47—Campaign Finance (See Exhibit A)**

The Second Party 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 Second Party 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.

#### **4.48—Legal Proceedings**

Except as specifically disclosed in writing to the PADD by the Second Party, prior to the date of this Contract, Second Party certifies there are no suits, investigations, or other proceedings pending or threatened against Second Party or any subcontractor which would have a material effect on Second Party's ability to perform under this Contract, or on Subcontractors ability to perform under their respective subcontracts, if applicable. Further, the Second Party shall use its best efforts to notify the PADD within one (1) business day, and in writing within three (3) business days, of all suits, investigations, or other proceedings involving Second Party related to this Contract. The Second Party shall send written notice to the PADD.

#### **4.49—Certification of Lobbying Activities (See Exhibit A)**

Second Party shall disclose any lobbying activities in accordance with Section 1352, Title 31, U. S. Code. The Second Party 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and

cooperative agreements) and that all 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.

#### **4.50—Discrimination Prohibited (Because of Race, Religion, Color, National Origin, Sex, Age, or Disability)**

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

Not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex or age. The Second Party further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Second Party agrees to provide needed reasonable accommodations upon request. The Second Party shall take affirmative action to ensure that applicants are employed and that employees are treated fairly during employment without regard to their race, religion, color, national origin, sex, age or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Second Party agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Second Party, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, age or disability.

Send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Second Party's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Second Party will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Comply with all provisions of Executive Order No. 11246 of September 24, 1965, Equal Employment Opportunity as amended by E.O. 11375, "Amending Executive Order 12246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, and Department of Labor."

Furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

Comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and all implementing regulations and executive orders. No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in relation to activities carried out under this contract on the basis of race, color, age, religion, sex, disability or national origin.

If a recipient of Federal Financial assistance, shall comply with Executive Order 13166, Federal Register Volume 65. No.50121, including but not limited to, language providing services to improve access to its programs and activities for persons, who, as a result of their national origin, are limited in their English proficiency ("LEP"). The language services shall:

Be consistent with the general guidance document (LEP Guidance) issued by the Department of Justice which sets forth the compliance standards recipients of Federal financial assistance must follow to ensure that LEP persons have meaningful access to the program's services and activities;  
Have a method of identifying LEP individuals; and  
Provide language assistance measures (e.g. oral interpretation and written translation services; training of staff; providing notice to LEP persons; monitoring compliance and updating the plan.)

In the event of the Second Party'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 the Second Party may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Second Party shall include the provisions of paragraphs (1) through (7) of Section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each sub-contractor or vendor. The Second Party shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event a Second Party becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the Second Party may request the United States to enter into such litigation to protect the interests of the United States.

#### **4.51—Minority Recruitment, Hiring and Reporting Requirements**

The Second Party shall maintain and provide documentation, as needed, of its minority recruiting and hiring policies and procedures, and make available, upon request, a report of these activities.

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

KRS 45A.485 requires the Second Party to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the Second Party 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, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers' compensation insurance laws.

To comply with the provisions of KRS 45A.485, the Second Party shall report any such final determination(s) of violation(s) to the PADD 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 Second Party shall be in continuous compliance with the provisions of those statutes which apply to the Second Party's operations, and that the Second Party's failure to comply with the above statutes for the duration of the contract, shall be grounds for the PADD's cancellation of the contract and the Second Party's disqualification from eligibility for future state contracts for a period of two (2) years.

The Second Party shall not have violated any of the provisions of the above-referenced statutes within the previous five (5) year period.

#### **4.53—Certification Regarding Drug Free Workplace**

The Second Party hereby certifies that it will, or will continue to, provide a drug free workplace in accordance with 45 CFR part 82. The Second Party 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 Second Party'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.

#### **4.54—Confidential Information**

The Contractor shall comply with the provisions of the Privacy Act of 1974 and 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 Commonwealth, its financial affairs, its relations with its citizens and its employees, as well as any other information which may be specifically classified as confidential by the Commonwealth in writing to the Contractor. The Contractor will comply with all Federal and State Regulations and Statutes related to confidentiality that are applicable to the Contractor. The Contractor shall have an appropriate agreement with its employees to that effect, provided however, that the foregoing will not apply to:

Information which the Commonwealth has released in writing from being maintained in confidence;

Information which 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

Information, which, after disclosure, becomes part of the public domain as defined above, through no act of the Contractor or information required to be disclosed by law.

The Contractor shall have an appropriate agreement with its Subcontractors extending these confidentiality requirements to all Subcontractors' employees.

#### **4.55—Confidentiality, Confidentiality Agreements and Limitations on Information and Data Use**

The Second Party agrees that it and any employee or agent acting on its behalf in providing services under this Contract will abide by the state and federal rules and regulations governing access to and use of information and data provided by the PADD or collected by the Second Party and will use such information or data only for those purposes expressly delineated, defined and authorized in this Contract. In the performance of services under this Contract, the Second Party agrees as follows:

The Second Party shall cause all personnel who may have access to confidential information provided by the PADD/CHFS to enter into the PADD approved confidentiality agreements and shall maintain such confidentiality agreements on file. The PADD reserves the right to direct the removal from contract administration, or the termination of access to the PADD provided information, for any individual covered by this Contract who has not signed a confidentiality agreement.

Any subcontractor, their agent, and any of their employees who enter into any type of agreement to fulfill the requirements of this contractual agreement with the Second Party, must provide written assurances that they and any of their agents will abide by the terms of confidentiality as set forth in this Contract, as well as any federal or state confidentiality agreements which may govern the terms and conditions in this Contract.

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 PADD 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 Second Party shall permit unrestricted access on demand to personnel of the PADD, Cabinet, the Office of the Attorney General, the Office of the Auditor of Public Accounts, and any representative of a government funding agency 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.

#### **4.56—HIPAA Confidentiality Compliance**

The Second Party 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) to protect the security, confidentiality, and integrity of health information. In the event, the Second Party is determined to be a business associate under HIPAA Privacy Rule, the Second Party agrees to execute a separate Business Associate Agreement, and use and disclose Protected Health Information only in accordance with HIPAA Privacy Rule.

#### **4.57—Governing Law and Regulations**

All questions as to the execution, validity, interpretation and performance of this Contract shall be governed by the laws of the Commonwealth. 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.

#### **4.58—Reduction in Contract Worker Hours**

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 agency 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.

#### **4.59—No Grant of Employment or Agency**

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

At no point shall any individual providing services under this Contract be considered an employee of the PADD, 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 Second Party.

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

FY '16 Contract Figures

Attachment  
A

|                             |                             | Budget |
|-----------------------------|-----------------------------|--------|
| Title IIIB                  | Support Services Fed        |        |
|                             | Support Services St         |        |
|                             | Support Services Local      |        |
|                             | Support Services Total      | _____  |
| Title IIIC1                 | Congregate Meals Fed        |        |
|                             | Congregate Meals St         |        |
|                             | Congregate Meals Local      |        |
|                             | Congregate Meals Total      | _____  |
| Title IIIC2                 | Home Delivered Meals Fed    |        |
|                             | Home Delivered Meals St     |        |
|                             | Home Delivered Meals Local  |        |
|                             | Home Delivered Meals Total  | _____  |
| Title IIID                  | Preventive Health Fed       |        |
|                             | Preventive Health St        |        |
|                             | Preventive Health Local     |        |
|                             | Preventive Health Total     | _____  |
| IIIB In-Home services Meals | Home Delivered Meals        |        |
|                             | State                       |        |
|                             | Local                       |        |
|                             | IIIB In-Home services Total | _____  |

## Attachment B

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

Vendors 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, et seq., (the "Act"), 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.

"Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

- a)—An account, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;
- b)—A Social Security number;
- c)—A taxpayer identification number that incorporates a Social Security number;
- d)—A driver's license number, state identification card number or other individual identification number issued by an agency;
- e)—A passport number or other identification number issued by the United States government; or
- f)—Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g."

As provided in KRS 61.931(5), a "non-affiliated third party" means "any person or entity that has a contract or agreement with the Commonwealth and receives (accesses, collects or maintains) personal information from the Commonwealth pursuant to the contract or agreement."

The vendor hereby agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

The vendor shall notify as soon as possible, but not to exceed seventy-two (72) hours, the contracting agency, the Commissioner of the Kentucky State Police, the Auditor of Public Accounts, 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. If the agency is a unit of government listed in KRS 61.931(1)(b), the vendor shall notify the Commissioner of the Department of Local Government in the same manner as above. If the agency is a public school district listed in KRS 61.931(1)(d), the vendor shall notify the Commissioner of the Department of Education in the same manner as above. If the agency is an educational entity listed under KRS 61.931(1), the vendor shall notify the Council on Postsecondary Education in the same manner as above. Notification shall be in writing on a form developed by the Commonwealth Office of Technology.

The vendor hereby agrees that the Commonwealth may withhold payment(s) owed to the vendor for any violation of the Identity Theft Prevention Reporting Requirements.

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



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

In accordance with KRS 61.932(2)(a) the vendor 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 Office of Technology:

<http://technology.ky.gov/ciso/Pages/InformationSecurityPolicies,StandardsandProcedures.aspx>