



Lori A. Cox  
Agency Director

Thomas L. Berkley Square  
2000 San Pablo Avenue, Fourth Floor  
Oakland, California 94612  
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<http://alamedasocialservices.org>

July 21, 2015

Honorable Board of Supervisors  
Administration Building  
Oakland, CA 94612

Dear Board Members:

**SUBJECT:** Approval of the HICAP Grant Agreement from the California Department of Aging and related service agreement with Legal Assistance for Seniors.

**RECOMMENDATIONS:**

- A. Approve the FY 2015-2016 Health Insurance Counseling and Advocacy Program (HICAP) Grant Agreement No. HI-1516-09 in the amount of \$427,744 and authorize the Board President to sign seven (7) Grant Agreements (attached) on behalf of Alameda County, each with an original signature.
- B. Approve a new service agreement (Procurement Contract No. 12460) with Legal Assistance for Seniors (Principal: James Treggiari, Executive Director; Location: Oakland) under Master Contract No. 900189, for delivery of the HICAP services in the amount of \$440,018 for the award period term of July 1, 2015 through June 30, 2016 and delegate authority to the Social Services Agency Director, or designee to negotiate and execute the contract under the Master Contracting Process.

**SUMMARY/DISCUSSION:**

This letter requests action by your Board to approve and execute a Grant Agreement issued by the California Department of Aging (CDA) for HICAP services for FY 2015-2016. CDA provides funding to the Alameda County Area Agency on Aging (AAA) for its HICAP program, which provides personalized counseling, community education and outreach events for Medicare beneficiaries. HICAP staff and volunteers provide accurate and objective information and assistance with Medicare benefits, prescription drug plans and health plans. Grant Agreement HI-1516-09 provides a total of \$427,744 in funding. The AAA will retain \$35,005 for administrative funding, as allowed by the agreement, and will allocate the remaining \$392,739 to Legal Assistance for Seniors, Inc. (LAS) that provides HICAP

services. In addition, Social Services Agency will provide an augmentation of \$47,279 for a total contract in the amount of \$440,018.

**SELECTION AND CRITERIA/PROCESS:**

*The subcontractor, LAS, receiving funds under this Grant Agreement was selected based on recommendations resulting from the FY 2014-2018 Request for Proposals completed by the AAA and the Advisory Commission on Aging. The Commission's recommendations for funding from the RFP were approved by your Board on June 24, 2014 (File #29358, Item 5). SSA obtained the Office of Contract Compliance's approved Federal SLEB waiver #F605. The contractor is a local Community Based Organization and is exempt from the county SLEB requirements.*

**FINANCING:**

Financing is from the state and federal funds awarded to Alameda County by the California Department of Aging through this Grant Agreement for FY 2015-2016. There is no additional net county cost.

Sincerely,



Lori A. Cox  
Agency Director

Attachments: 1 packet of seven (7) HICAP documents for Board President's signature.

**2015-16 (HI) CONTRACT TRANSMITTAL LETTER**  
(This letter must be signed and returned with the Contract package)

Glenn Wallace  
Manager, Contracts and Business Services  
California Department of Aging  
1300 National Drive, Suite 200  
Sacramento, CA 95834

Enclosed please find all documents required for the execution of my contract with the California Department of Aging (CDA). All documents have been reviewed for completeness and all supporting documents identify the Contractor's name **exactly** as shown on the Standard Agreement (Std.213)

The following documents are enclosed. A check has been placed in each appropriate box.

- ☐ **Four Standard Agreements** (Four Std.213s with one set of terms and conditions) signed with original signatures. SIGNATURE STAMPS WILL NOT BE ACCEPTED.
- ☐ **RESOLUTION** of meeting authorizing execution of this Contract (no Minute Orders without contract number). **The Contract Number must be referenced in the Resolution.**
- ☐ **CERTIFICATE OF INSURANCE** referencing the Contract number or Letter of Self-Insurance for General Liability.
- ☐ **CERTIFICATE OF INSURANCE** referencing the Contract number or Letter of Self-Insurance for Automobile Liability.
- ☐ **CERTIFICATE OF INSURANCE** referencing the Contract number or Letter of Self-Insurance for Professional Liability.
- ☐ **CONTRACTOR/VENDOR STATEMENT OF CONFIDENTIALITY (CDA 1024)** referencing the Contract number must be signed and returned with this Agreement.

- Upon receipt of a complete and correct contract package, the contract will be promptly executed and a copy sent to me.
- Failure to include all required documents that are complete and correct will result in the package being returned to me via regular mail. The returned package will include a statement indicating the reason(s) for return. Execution of this Contract and the availability of funds may be delayed.

\_\_\_\_\_  
SIGNATURE  
(Director or designee)

\_\_\_\_\_  
CONTRACT NUMBER

DATE \_\_\_\_\_



## CALIFORNIA DEPARTMENT OF AGING

300 NATIONAL DRIVE, SUITE 200

SACRAMENTO, CA 95834

www.aging.ca.gov

TDD 1-800-735-2929

FAX 916-928-2500

TEL 916-419-7531

**INSTRUCTIONS FOR PROCESSING THIS (HI) CONTRACT**

All documents must identify the Contractor's legal name **exactly** as shown on the Standard Agreement (STD. 213).

**DOCUMENTS REQUIRED TO EXECUTE CONTRACT**

- **Four Standard Agreements** (Std. 213s with one set of terms and conditions) signed with original signatures. SIGNATURE STAMPS WILL NOT BE ACCEPTED.
- **Resolution** - If your agency is a public entity, the Department requires a resolution from the Board of Supervisors or equivalent governing body authorizing the execution of this Contract. If your agency is private nonprofit, the Department requires an authorization via Resolution by the Board of Directors to execute this Contract. **These documents must reference the Contract Number and may reference more than one Contract Number.** If the resolution does not also authorize the signing of amendments, another resolution/minutes will have to be obtained upon the amending of this Agreement. If minutes are submitted they must be signed off as approved or the following month's minutes must be submitted indicating the previous minutes were approved.
- **Certificate of Insurance** referencing the Contract Number or Letter of Self-Insurance for General Liability. Certificates may reference more than one Contract Number. Certificates and/or Letters of Self-Insurance must meet the conditions specified in ARTICLE XI. of the Agreement. ***The additional insured statement must name the Department of Aging and/or the State of California as the additional insured.***
- **Certificate of Insurance** referencing the Contract Number or Letter of Self-Insurance for Professional Liability Auto Liability. ***The auto liability certificate must name the Department of Aging and/or the State of California as the additional insured.***
- **Contractor/Vendor Statement of Confidentiality (CDA 1024)** a signed copy must be returned with the Contract. A separate signed copy must be returned for each different Contract Number.

**NOTICE:**

The Department requires that all of the supporting documents be returned with the Contract as a complete package. An incomplete package will be returned to the Contractor.

Each Contract package must stand on its' own. Copies of supporting documents that do not need original signatures; (i.e., Insurance Certificates, or Resolutions) will be accepted. If you have more than one Contract with the Department; e.g. MSSP, Title V, AP Contracts, you may not send one Insurance Certificate to cover all three. The document itself may be a copy but there must be a copy for each different Contract Number.

**FAILURE** to complete each Contract Package or to return the required documents that meet the specifications of the Department will delay processing of the Contract and may affect the timely release of your request for funds.

If you have any questions regarding the terms and conditions/program exhibits of this Agreement, please contact your Team Analyst. If you have questions regarding these instructions, please contact Don Fingado, Contracts Coordinator at (916) 419-7157.



**CONTRACTOR/VENDOR CONFIDENTIALITY STATEMENT**

CDA 1024 (REV 1/07)

CERTIFICATION	
I hereby certify that I have reviewed this Confidentiality Statement and will comply with the following Statements.	
CONTRACTOR/VENDOR NAME: COUNTY OF ALAMEDA, Area Agency on Aging	CONTRACT NUMBER: HI-1516-09
AUTHORIZED SIGNATURE:	PRINTED NAME AND TITLE OF PERSON SIGNING:
<p><b>In compliance with Government Code 11019.9, Civil Code 1798 Et. Seq., Management Memo 06-12 and Budget Letter 06-34 the California Department of Aging (CDA) hereby requires the Contractor/Vendor to certify that:</b></p> <ul style="list-style-type: none"><li>• confidential information shall be protected from disclosure in accordance with all applicable laws, regulations and policies.</li><li>• all access codes which allow access to confidential information will be properly safeguarded.</li><li>• activities by any individual or entity that is suspected of compromising confidential information will be reported to CDA by completing a Security Incident Report, CDA 1025.</li><li>• any wrongful access, inspection, use, or disclosure of confidential information is a crime and is prohibited under State and federal laws, including but not limited to California Penal Code Section 502; California Government Code Section 15619, California Civil Code Section 1798.53 and 1798.55, and Health Insurance Portability and Accountability Act.</li><li>• any wrongful access, inspection, use, disclosure, or modification of confidential information may result in termination of this Contract/Agreement.</li><li>• obligations to protect confidential information obtained under this Contract/Agreement will continue after termination of the Contract/Agreement with CDA.</li><li>• all employees/subcontractors of the Contractor/Vendor will complete the required Security Awareness Training module located at <a href="http://www.aging.ca.gov">www.aging.ca.gov</a>, within 30 days of the start date of this Contract/Agreement or within 30 days of the start date of any new employee or subcontractor. Contractor/Vendor may substitute CDA's Security Awareness Training program with its Security Training provided such training meets or exceeds CDA's training requirement.</li><li>• all employees/subcontractors of the Contractor/Vendor will be notified of CDA's confidentiality and data security requirements.</li><li>• CDA or its designee will be granted access by the Contractor or Vendor to any computer-based confidential information within the scope of the Contract.</li></ul>	

**CONTRACTOR/VENDOR CONFIDENTIALITY STATEMENT**

CDA 1024 (REV 1/07)

- I agree to protect the following types of confidential information which include but not limited to:
  - Social Security number
  - Medical information
  - Claimant and employer information
  - Driver License information
  - Information about individuals that relate to their personal life or identifies or describes an individual
  - Other agencies' confidential and proprietary information
  - Criteria used for initiating audit selection
  - Methods agencies use to safeguard their information (computer systems, networks, server configurations, etc.)
  - Any other information that is considered proprietary, a copyright or otherwise protected by law or contract.
- I agree to protect confidential information by:
  - Accessing, inspecting, using, disclosing or modifying information only for the purpose of performing official duties
  - Never accessing, inspecting, using, disclosing, or modifying information for curiosity, personal gain, or any non-business related reason
  - Securing confidential information in approved locations
  - Never removing confidential information from the work site without authorization.

STATE OF CALIFORNIA  
**STANDARD AGREEMENT**

\*STD 213 (Rev 06/03)

AGREEMENT NUMBER

**HI-1516-09**

REGISTRATION NUMBER

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

STATE AGENCY'S NAME

California Department of Aging

CONTRACTOR'S NAME

COUNTY OF ALAMEDA, Area Agency on Aging

2. The term of this Agreement is: July 1, 2015  
June 30, 2016
3. The maximum amount of this Agreement is: **\$427,744.00**  
Four hundred twenty-seven thousand seven hundred forty-four and 00/100 dollars
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work 5 page(s)

Exhibit B – Budget Detail, Payment Provisions, and Closeout 8 page(s)

Exhibit C\* – General Terms and Conditions GTC 610

Check mark one item below as Exhibit D:



Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)

32 page(s)



Exhibit - D\* Special Terms and Conditions

Exhibit E – Additional Provisions

4 page(s)

By

Print Name

DONNA R. ZIEGLER, County Counsel

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

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

**CONTRACTOR**

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

COUNTY OF ALAMEDA, Area Agency on Aging

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

6955 Foothill Blvd, Suite 300 Oakland CA 94605-2421

**STATE OF CALIFORNIA**

AGENCY NAME

California Department of Aging

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Glenn Wallace, Manager, Contracts and Business Services Section

ADDRESS

1300 National Drive, Suite 200, Sacramento CA. 95834

California Department of General  
Services Use Only

☒ Exempt per:  
Older Californians Act



**SCOPE OF WORK**

1. Contractor agrees to provide to the California Department of Aging services under Agreement No. HI-1516-09, in accordance with this Agreement.
2. The services shall be performed in Planning and Service Area(s): 9.
3. The services shall be provided as needed.
4. The project representatives during the term of this agreement will be:

State Agency: California Department of Aging	Contractor: COUNTY OF ALAMEDA, Area Agency on Aging
Name: June Ditgen	Name: Tracy Murray
Phone (916) 419-7556	Phone: (510) 577-1966
Fax: (916) 928-2510	Fax: (510) 577-1965

Direct all contract inquiries to:

State Agency: California Department of Aging	Contractor: COUNTY OF ALAMEDA, Area Agency on Aging
Section/Unit: Business Services and Contracts	Section/Unit: Area Agency On Aging
Attention: Don Fingado	Attention: Tracy Murray
Address: 1300 National Drive, Suite 200 Sacramento, CA 95834	Address: 6955 Foothill Blvd, Suite 300 Oakland CA 94605-2421
Phone: (916) 419-7157	Phone: (510) 577-1966
Fax: (916) 928-2500	Fax: (510) 577-1965
Email: don.fingado@aging.ca.gov	Email: tmurray@acgov.org

**Scope of Work - Exhibit A**  
**HICAP - Fiscal Year 2015-16**

**ARTICLE I. PROGRAM DEFINITIONS**

- A. "Eligible Service Population" means Medicare beneficiaries, including Medicare beneficiaries by virtue of a disability, and those persons imminent of Medicare eligibility [Welf. & Inst. Code §9541(a), (c)(2)], and the public at large who are eligible to receive HICAP community education services.  
[Welf. & Inst. Code §9541(c)(1), (c)(4)-(6)]
- B. "Health Insurance Counseling and Advocacy Program" (HICAP) is defined in Welf. & Inst. Code §9541.
- C. "Medicare Modernization Act 2005 (MMA) State Funds" means the 2005 augmentation of HICAP State funds as defined in Welf. & Inst. Code §9757.5(h).
- D. "State Health Insurance Assistance Program" (SHIP) means a national program supported by the federal ACL that offers one-on-one counseling and assistance to people with Medicare and their families. Through federal grants directed to states, SHIPs provide free counseling and assistance via telephone and face-to-face interactive sessions, public education presentations and programs, and media activities. In California, SHIP is the same program as the Health Insurance Counseling and Advocacy Program (HICAP). This term may be used interchangeably with HICAP.
- E. "Program Income" means revenue generated by the Contractor or Subcontractor from contract-supported activities, and may include:
  - 1. Voluntary contributions received from a participant or responsible party as a result of the service.
  - 2. Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement.
  - 3. Royalties received on patents and copyrights from contract-supported activities.
  - 4. Proceeds from the sale of items fabricated under a contract agreement.

**ARTICLE II. SCOPE OF WORK**

The Contractor, whether providing HICAP directly or through a subcontract, shall:

- A. Ensure statutory provisions of HICAP [Welf. & Inst. Code §9541] are met. Services shall be provided in accordance with all applicable laws, regulations, this Agreement, SHIP Basic Grant Program Terms and Conditions, the HICAP Program Manual, and any other subsequent California Department of Aging



**Scope of Work - Exhibit A**  
**HICAP - Fiscal Year 2015-16**

**ARTICLE II. SCOPE OF WORK (Continued)**

(CDA) Program Memos (PM), provider bulletins or similar instructions issued during the term of this Agreement.

- B. Maintain and, if applicable, distribute a current HICAP Program Manual and related CDA requirements to all HICAP Counselors and responsible persons to ensure ready access to standards, policies, and procedures. Additionally, all counselors shall be provided the latest HICAP Counselor Handbook.  
[Welf. & Inst. Code §9100(c)-(d); §9541(b)(1)-(2)]
- C. Provide timely notice to CDA of any changes to the Program or changes in the status of the Contractor or Subcontractor that could restrict the operations of, or access to, HICAP services. These changes include, but are not limited to, personnel changes, program or project phone number changes, headquarters office address changes and mailing address changes. If subcontracted, the Contractor will forward this information to CDA.
- D. Submit the name of the HICAP Program Manager to CDA within thirty (30) days of initial employment. If subcontracted, the Contractor will forward this information to CDA.
- E. Recruit and maintain a strong, well-trained, cadre of volunteer counselors, Long-Term Care Counselors, Long-Term Care Community Educators and General Community Educators [Welf. & Inst. Code §9541(c)(7)]. New counselors shall be recruited, trained, and registered to maintain the agreed upon performance measures in the latest Area Plan Service Unit Plans (SUP).
- F. Ensure that the standard HICAP work week business hours, during which HICAP is open to the public, shall be five (5) days a week, Monday through Friday, from at least 9 a.m. to 4 p.m., except on holidays.
- G. Ensure that public telephone access is available during normal business hours, Monday through Friday, 9 a.m. to 4 p.m. In the event clients cannot receive personal assistance immediately, they must be offered an opportunity to leave their name, a message, and return telephone number with an answering service or on an answering machine. Calls from clients leaving messages must be returned within two (2) business days.
- H. Provide a written disclosure statement or its equivalent to counseling clients prior to counseling, as prescribed by CDA in the HICAP Program Manual.  
[Welf. & Inst. Code §9541(f)(4)]
- I. Provide community education designed to inform the public about Medicare, Medicare supplement and long-term care insurance options, Medicare



**Scope of Work - Exhibit A**  
**HICAP - Fiscal Year 2015-16**

**ARTICLE II. SCOPE OF WORK (Continued)**

Advantage plans, related managed health care plans, and insurance topics.  
[Welf. & Inst. Code §9541(c)(1), (c)(4)-(6)]

- J. Refer instances of suspected misrepresentation in advertising or sales of services provided by Medicare, managed health care plans, and life and disability insurers and agents, in accordance with the HICAP Program Manual.  
[Welf. & Inst. Code §9541(e)]
- K. Ensure that the HICAP Program Manager and/or designated representative shall attend all CDA required HICAP training sessions or conferences, in order to maintain program knowledge, efficiency, and competency.  
[Welf. & Inst. Code §9541(f)(7)]
- L. Maintain a program data collection and reporting system as specified in Exhibit E of this Agreement.
- M. Meet the minimum performance requirements in the Area Plan SUP. Programs will be notified of new performance requirements in a CDA PM.
- N. Ensure the submission of program information and support documentation, to the CDA, for the development of required reports. These include but are not limited to, the SHIP Grant Application, Supplemental Grant Funding Applications, and the SHIP Grant Mid-term Report. The information and documentation will be sent in the format requested, in a timely manner, and at intervals as determined by CDA.
- O. Ensure that if legal services are provided directly or through a subcontract, the following conditions must be met:
  - 1. HICAP legal representation and technical program support shall be provided by or under the direction of a Supervising Attorney who is trained in Medicare law and who is in good standing with the California Bar.
  - 2. Legal representation services shall be limited to Medicare, Medicare Part D issues, Medicare savings programs, low-income subsidy issues, long-term care insurance, managed care, and related health care coverage plans. [Welf. & Inst. Code §5941(c)(3)]
  - 3. HICAP legal representation shall be subject to the understanding that the legal representation and legal advocacy shall not include the filing of lawsuits against private insurers or managed health care plans.  
[Welf. & Inst. Code §5941(c)(3)]

**Scope of Work - Exhibit A**  
**HICAP - Fiscal Year 2015-16**

**ARTICLE II. SCOPE OF WORK (Continued)**

4. Contracted legal representation services shall not commence without a formal referral from the HICAP Program Manager to the Supervising Attorney, and only after a preliminary counseling session determines the need for referral.
  5. The Supervising Attorney shall report the performance of legal services in accordance with HICAP reporting instructions.
- P. In addition to the conditions above, the Contractor shall perform the following if subcontracting for HICAP program services:
1. Enter into contracts with subcontractors to operate the HICAP and provide HICAP counseling, informal advocacy, outreach, education and legal representation to Medicare beneficiaries within the contracted service area pursuant to Welf. & Inst. Code §9541(c)(3), the HICAP Program Manual as issued by CDA, and any other subsequent CDA PMs, provider bulletins or similar instructions issued during the term of this Agreement.
  2. Ensure all applicable provisions required within this Agreement are included in any subcontract entered into by the Contractor to carry out the terms of this Agreement.
  3. Review, approve, and monitor subcontractors' budgets and expenditures and any subsequent amendments and revisions to budgets. The Contractor shall, to the extent feasible, ensure that all budgeted funds are expended by the end of each fiscal year.
  4. Conduct onsite monitoring once every two years, and evaluate and document subcontractors' performance and compliance with this Agreement. [45 CFR 1321.11]
  5. Provide training, support and technical assistance to the Subcontractor as needed and respond in writing to all written requests from subcontractors for guidance and interpretation of instructions.



**Budget Detail, Payment Provisions, and Closeout - Exhibit B**  
**HICAP Fiscal Year 2015-16**

**ARTICLE I. FUNDS**

**A. Expenditure of Funds**

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

**In State:**

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

**Out of State:**

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

This is not to be construed as limiting the Contractor from paying any differences in costs, from funds other than those provided by this Department, between the CalHR rates and any rates the Contractor is obligated to pay under other contractual agreements. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State. [2 CCR, 599.615 et seq.]

The Contractor agrees to include these requirements in all contracts it enters into with subcontractors to provide services pursuant to this Agreement.

3. CDA reserves the right to refuse payment to the Contractor or disallow costs for any expenditure, as determined by CDA to be out of compliance with this Agreement, unrelated or inappropriate to contract activities, when adequate supporting documentation is not presented, or where prior approval was required but was either not requested or not granted.
4. CDA may require prior approval and may control the location, cost, dates agenda, instructors, instructional materials, and attendees at any reimbursable training seminar workshop or conference conducted by the Contractor in relation to the program funded through this Contract. CDA may also maintain control over any reimbursable publicity, or education materials to be made available for distribution. The Contractor is required to acknowledge the support of CDA in writing, whenever publicizing the work under this Agreement in any media.



**Budget Detail, Payment Provisions, and Closeout - Exhibit B**  
**HICAP Fiscal Year 2015-16**

**ARTICLE I. FUNDS (Continued)**

**B. Accountability for Funds**

1. The Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from those for any other funds administered by the Contractor, and shall be maintained in accordance with Generally Accepted Accounting Principles and Procedures and the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [2 CFR Part 200]

2. Financial Management Systems

The Contractor shall meet the following standards for its financial management systems, as stipulated in [45 CFR 92.20] (governmental) or [45 CFR 74.21] (non-profits) as well as those stipulated in [2 CFR §200.302] Financial management:

- a. Financial Reporting
- b. Accounting Records
- c. Complete Disclosure
- d. Source Documentation
- e. Internal Control
- f. Budgetary Control
- g. Cash Management (written procedures)
- h. Allowable Costs (written procedures)

**C. Unexpended Funds**

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

**D. Availability of Funds**

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

**Budget Detail, Payment Provisions, and Closeout - Exhibit B**  
**HICAP Fiscal Year 2015-16**

**ARTICLE I. FUNDS (Continued)**

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

3. Limitation of State Liability

Payment for performance by the Contractor shall be dependent upon the availability of future appropriations by the Legislature or Congress for the purposes of this contract and approval of an itemized Budget (CDA 229). No legal liability on the part of the State for any payment may arise under this contract until funds are made available, the itemized budget is received and approved by the State, and the Contractor has received an executed contract.

4. Funding Reduction(s)

- a. If funding for any State fiscal year is reduced or deleted by the Department of Finance, Legislature or Congress for the purposes of this program, the State shall have the option to either:
  - i. Terminate the Contract pursuant to Exhibit D, Article XII, A. of this Agreement, or
  - ii. Offer a contract amendment to the Contractor to reflect the reduced funding for this contract.
- b. In the event that the State elects to offer an amendment, it shall be mutually understood by both parties that (1) the State reserves the right to determine which contracts, if any, under this program shall be reduced (2) some contracts may be reduced by a greater amount than others, and (3) the State shall determine at its sole discretion the amount that any or all of the contracts shall be reduced for the fiscal year.

**E. Interest Earned**

1. Interest earned on federal advance payments deposited in interest-bearing accounts must be remitted annually to CDA. Interest amounts up to \$500 per year may be retained by the Contractor and subcontractors for administrative expenses [2 CFR 200.305(b)(9)].
2. Interest earned on advances of federal and non-federal funds shall be identified as non-match cash.



**Budget Detail, Payment Provisions, and Closeout - Exhibit B**  
**HICAP Fiscal Year 2015-16**

ARTICLE I. FUNDS (Continued)

3. The Contractor must maintain advance payments of federal awards in interest-bearing accounts, unless the following apply: [2 CFR 200.305(8)]
  - a. The Contractor receives less than \$120,000 in federal awards per year
  - b. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on federal cash balances
  - c. The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources

F. Program Income

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

G. One-Time Only (OTO) Funds

OTO funds are non-transferable between funding sources. This means that OTO funds can only be used in the program in which it was accrued.

H. Matching Contributions

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

I. Administration

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

The Contractor and AAA's costs for Administration are limited to ten percent (10%) of the total HICAP funding allocation less Medicare Modernization Act 2005 State Funds (MMA State Funds). [Scope of Work, Exhibit A, Article I, D] and [W & I, Section 9757.5, (h)]



**Budget Detail, Payment Provisions, and Closeout - Exhibit B**  
**HICAP Fiscal Year 2015-16**

**ARTICLE I. FUNDS (Continued)**

The maximum allowable AAA Administration will be identified on the HICAP Budget Display.

**ARTICLE II. BUDGET AND BUDGET REVISION**

- A. The Contractor shall be compensated for expenses only as itemized in the approved Budget, with the exception of line item budget transfers as noted in G.1.(a) of this Article, and shall not be entitled to payment for these expenses until this Agreement is approved and executed by CDA. The approved HICAP Budget is hereby incorporated by reference into this Agreement as a part of Exhibit B.
- B. The Budget must set forth in detail the reimbursable items, unit rates and extended total amounts for each line item. The Contractor's budget shall include, at a minimum, the following items when reimbursable under this Agreement:
  - 1. Personnel Costs - monthly, weekly, or hourly rates, as appropriate, and personnel classifications together with the percentage of time to be charged to this Agreement.
  - 2. Fringe Benefits.
  - 3. Contractual Costs – subcontract and consultant cost detail.
  - 4. Indirect Costs.
  - 5. Rent - specify square footage and rate.
  - 6. Supplies.
  - 7. Equipment - detailed descriptions and unit costs.
  - 8. In State Travel – mileage reimbursement rate, lodging, per diem and other costs.
  - 9. Out of State Travel - any travel outside the State of California including mileage reimbursement rate, lodging, per diem and other costs.
  - 10. Other Costs - a detailed list of other operating expenses.
- C. The original FY 2015-16 Budget is due electronically to the Contractor's CDA Fiscal Team Specialist no later than thirty (30) days from the date of the transmission of the Budget Display and Contract.
- D. The Contractor shall submit electronically a budget revision thirty (30) days after receiving an amended HICAP Budget Display with changes in funding levels, unless otherwise instructed by CDA.

**Budget Detail, Payment Provisions, and Closeout - Exhibit B**  
**HICAP Fiscal Year 2015-16**

**ARTICLE II. BUDGET AND BUDGET REVISION (Continued)**

- E. The Contractor shall ensure that the Subcontractor shall submit a budget, which shall be incorporated by reference into the subcontract and will have, at a minimum, the categories listed in Section B, above.
- F. The final date to submit a budget revision is May 1 of the contract period unless otherwise specified by CDA. CDA will not accept any budget revision after the contract period has expired.
- G. Line Item Budget Transfers
1. The Contractor may transfer contract funds between line items under the following terms and conditions:
    - a. The Contractor shall submit a revised budget to CDA for any line item budget transfer of funds that is ten percent (10%) or more of the total budget.
    - b. The Contractor shall maintain a written record of all budget changes and clearly document line item budget changes. The record shall include the date of the transfer, the amount, and the purpose. This record shall be available to CDA upon request and shall be maintained in the same manner as all other financial records.
- H. In the event that programs are changed from direct services to contracted services or contracted services to direct services, the Contractor shall submit a revised budget to CDA, prior to implementation of said change. An amendment to this Agreement shall be required in accordance with Exhibit D, Article XV.

**ARTICLE III. PAYMENT**

- A. The Contractor shall prepare and submit a HICAP Report of Expenditures/Request for Funds (CDA 245) by the 30<sup>th</sup> of each month to the CDA Fiscal Team in electronic format, using the calendar provided, unless otherwise specified by CDA.

**Monthly HICAP Fiscal Reporting Due Dates**

RFF Month	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
RFF Due Date	5/30	6/30	7/30	8/30	9/30	10/30	11/30	12/30	1/30	2/28	3/30	4/30
Expenditure Month	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Expenditure Report Due Date	5/30	6/30	7/30	8/30	9/30	10/30	11/30	12/30	1/30	2/28	3/30	4/30

**Budget Detail, Payment Provisions, and Closeout - Exhibit B**  
**HICAP Fiscal Year 2015-16**

**ARTICLE III. PAYMENT (Continued)**

The table is a standard request for funds (RFF) and expenditure reporting schedule. If the effective date of this contract is not July 1, the Contractor's RFF and expenditure reporting will commence with the first month of the term of this contract period and end with the month preceding the last full month of the contract.

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

**ARTICLE IV. CLOSEOUT**

- A. There will be two Closeout Reports for HICAP, one for the period of April 1, 2015 through March 30, 2016 and a final Closeout Report for the period April 1, 2016 through June 30, 2016. Funds may be carried over from June 30, 2015 into State Fiscal Year (SFY) 2015-16.
- B. All contractors must submit to CDA, Closeout Reports as instructed by CDA.
- C. All contractors must submit the Report of Property Purchased with Agreement Funds (CDA 32) with the Closeout Report.
- D. Closeout reporting documents must be addressed to the CDA Fiscal Team.



**Exhibit B - Budget Detail, Payment Provisions, and Closeout**

**HEALTH INSURANCE COUNSELING AND ADVOCACY PROGRAM**  
**Budget Display**  
**July 1, 2015 - June 30, 2016**

County of Alameda, Area Agency on Aging

	PROJECT	PROGRAM BASELINE	ONE-TIME ONLY	TOTAL	NET CHANGE
<b>STATE FISCAL YEAR 2015-2016</b>					
<b>HICAP Funds (July 1, 2015-March 31, 2016)</b>					
Reimbursements (Ins Fund)	HIRL15-15	133,002	-	133,002	-
State HICAP Fund	HIHL15-15	66,478	-	66,478	-
Federal SHIP Funds	HIFL15-15	121,619	-	121,619	-
<b>STATE FISCAL YEAR 2015-16 (9 MONTHS) TOTAL</b>		<b>321,099</b>	<b>-</b>	<b>321,099</b>	<b>-</b>
<b>HICAP Funds (April 1, 2016-June 30, 2016)</b>					
Reimbursements (Ins Fund)	HIRL16-15	44,334	-	44,334	-
State HICAP Fund	HIHL16-15	22,160	-	22,160	-
Federal SHIP Funds	HIFL16-15	40,151	-	40,151	-
<b>STATE FISCAL YEAR 2015-16 (3 MONTHS) TOTAL</b>		<b>106,645</b>	<b>-</b>	<b>106,645</b>	<b>-</b>
<b>STATE FISCAL YEAR 2015-16 (12 MONTHS) TOTAL</b>		<b>427,744</b>	<b>-</b>	<b>427,744</b>	<b>-</b>
<b>GRAND TOTAL (JULY 1, 2015-JUNE 30, 2016)</b>					
Reimbursements (Ins Fund)		177,336	-	177,336	-
State HICAP Fund		88,638	-	88,638	-
Federal SHIP Funds		161,770	-	161,770	-
<b>TOTAL ALL FUNDS</b>		<b>427,744</b>	<b>-</b>	<b>427,744</b>	<b>-</b>

The maximum allowable expenditure for Administration from July 1, 2015 - March 31, 2016 funding is:

Reimbursements (Ins Fund)	9,415
State HICAP Fund	4,705
Federal SHIP Funds	12,162

The maximum allowable expenditure for Administration from April 1, 2016 - June 30, 2016 funding is:

Reimbursements (Ins Fund)	3,139
State HICAP Fund	1,569
Federal SHIP Funds	4,015

\*\*Funds for this contract are provided by using the following Centers for Medicare & Medicaid Services grants:

CFDA#	Project Title	Award #	Effective Date
93.779	State Health Insurance Assistance Program	90SA0041-02-00	4/1/2015
93.779	State Health Insurance Assistance Program	To Be Announced	4/1/2016

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS**

**A. General Definitions**

1. "Agreement" or "Contract" means the Standard Agreement, (Std. 213), Exhibits A, B, C, D, and E, and an approved Health Insurance Counseling Advocacy Program (HICAP) Budget, all of which are hereby incorporated by reference, amendments, and any other documents incorporated by reference, unless otherwise provided for in this Article.
2. "Contractor" means the Area Agency on Aging (AAA) awarded funds under this Agreement and is accountable to the State and/or federal government for use of these funds and is responsible for executing the provisions for services provided under this Agreement.
3. "CCR" means California Code of Regulations.
4. "CFR" means Code of Federal Regulations.
5. "Data Universal Numbering System (DUNS) number" means the nine-digit number established and assigned by Dun and Bradstreet, Inc., to uniquely identify business entities.
6. "Cal. Gov. Code" means California Government Code.
7. "OMB" means Office of Management and Budget.
8. "PCC" means the Public Contract Code.
9. "Reimbursable item" also means "allowable cost" and "compensable item."
10. "State" and "Department" mean the State of California and the California Department of Aging (CDA) interchangeably.
11. "Subcontractor" means the legal entity that receives funds from the Contractor to carry out part of a federal award identified in this Agreement.
12. Subcontract means any form of legal agreement between the Contractor and the Subcontractor, including an agreement that the Contractor considers a contract, including vendor type Agreements that provide for the provision of goods or services under this Agreement.
13. "U.S.C." means United States Code.
14. "Welf. & Inst. Code" means Welfare and Institutions Code.



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

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

**B. Resolution of Language Conflicts**

The terms and conditions of this federal award and other requirements have the following order of precedence if there is any conflict in what they require:

1. The State Health Insurance Assistance Program (SHIP) Grant Terms and Conditions
2. Other applicable federal statutes and their implementing regulations
3. Older Californians Act
4. Standard Agreement (Std. 213), all Exhibits and any amendments thereto
5. Any other documents incorporated herein by reference, including the federal HHS terms and conditions found in Part II of the HHS Grant Policy Statement <http://www.hhs.gov/asfr/ogapa/aboutog/hhsgps107.pdf>
6. Program memos and other guidance issued by CDA

**ARTICLE II. ASSURANCES**

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

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

**B. Subcontracts**

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

**C. Nondiscrimination**

The Contractor shall comply with all federal statutes relating to nondiscrimination. These include those statutes and laws contained in the Contractor Certification

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE II. ASSURANCES (Continued)**

Clauses (CCC 307) which is hereby incorporated by reference. In addition, the Contractor shall comply with the following:

1. Equal Access to Federally-Funded Benefits, Programs and Activities

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

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

The Contractor shall, unless exempted, ensure compliance with the requirements of Cal Gov. Code § 11135 to 11139.5; 22 CCR 98000 et seq., which prohibit recipients of state financial assistance from discriminating against persons based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. [22 CCR 98323, Chapter 182, Statutes of 2006]

3. The Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. [42 U.S.C. 12101 et seq.]

4. The Contractor agrees to include these requirements in all contracts it enters into with subcontractors to provide services pursuant to this Agreement.

D. Standards of Work

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

E. Conflict of Interest

1. The Contractor shall prevent employees, consultants, or members of governing bodies from using their positions for purposes including, but not limited to, the selection of subcontractors, that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as family, business, or other ties. In the event that the State determines that a conflict of interest exists, any increase in costs



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE II. ASSURANCES (Continued)**

associated with the conflict of interest may be disallowed by the State and such conflict may constitute grounds for termination of the Agreement.

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

**F. Covenant Against Contingent Fees**

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

**G. Payroll Taxes and Deductions**

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

**H. Facility Construction or Repair**

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

**I. Contracts in Excess of \$100,000**

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

1. Clean Air Act, as amended [42 U.S.C.7401]
2. Clean Water Act, as amended [33 U.S.C.1251]

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE II. ASSURANCES (Continued)**

3. Federal Water Pollution Control Act, as amended  
[33 U.S.C. 1251, et seq.]
4. Environmental Protection Agency Regulations [40 CFR, Part 29]  
[Executive Order 11738]
5. Public Contract Code Section 10295.3

**J. Debarment, Suspension, and Other Responsibility Matters**

1. The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors:
  - a. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency. [45 CFR 92.35]
  - b. Have not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
  - c. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification.
  - d. Have not, within a three-year period preceding this Agreement, had one or more public transactions (federal, State, or local) terminated for cause or default.
2. The Contractor shall report immediately to CDA in writing, any incidents of alleged fraud and/or abuse by either the Contractor or subcontractors.
3. The Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by CDA.



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

ARTICLE II. ASSURANCES (Continued)

4. The Contractor agrees to timely execute any and all amendments to this Agreement or other required documentation relating to the Subcontractor's debarment/suspension status.

K. Agreement Authorization

1. If a public entity, the Contractor shall submit to CDA a copy of an approved resolution, order, or motion referencing this Agreement number authorizing execution of this Agreement. If a private nonprofit entity, the Contractor shall submit to CDA an authorization by the Board of Directors to execute this Agreement, referencing this Agreement number.
2. These documents, including minute orders, must also identify the action taken.
3. Documentation in the form of a resolution, order, or motion by the Governing Board of the AAA is required for the original and each subsequent amendment to this Agreement. This requirement may also be met by a single resolution from the Governing Board of the Contractor authorizing the AAA Director or designee to execute the original and all subsequent amendments to this Agreement.

L. Contractor's Staff

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

M. DUNS Number and Related Information

1. The DUNS number must be provided to CDA prior to the execution of this Agreement.
2. The Contractor must keep the DUNS number and related updates on the website at <http://fedgov.dnb.com/webform>.
3. The Contractor shall review all DUNS information to ensure it is up-to-date and the DUNS number status is "active".
4. If CDA cannot access the Contractor's DUNS information related to this federal subaward on the Federal Funding Accountability and

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE II. ASSURANCES (Continued)**

Transparency Act Subaward Reporting System (SAM.gov) due to errors in the Contractor's data entry for its DUNS number, the Contractor must immediately update the information as required.

**N. Corporate Status**

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

**O. Lobbying Certification**

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

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency; a Member of Congress; an officer or employee of Congress; or an employee of a Member of Congress; in connection with the awarding of any federal contract; the making of any federal grant; the making of any federal loan; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE II. ASSURANCES (Continued)**

connection with this federal contract, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including contracts under grants, loans, and cooperative agreements which exceed \$100,000) and that all subcontractors shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.
5. This certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352.
6. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**ARTICLE III. AGREEMENT**

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

**ARTICLE IV. COMMENCEMENT OF WORK**

The Contractor shall not begin work in advance of receipt of the approved Contract. If the Contract is not approved and the Contractor has begun work, the Contractor may be considered to be a volunteer or the Contractor may have to pursue a claim for payment by filing with the Victim Compensation and Government Claims Board. The State has no legal obligation unless and until the Contract is approved.

**ARTICLE V. SUBCONTRACTS**

- A. The Contractor is responsible for carrying out the terms of this Agreement, including the satisfaction, settlement, and resolution of all administrative, programmatic, and fiscal aspects of the program(s), including issues that arise out of any subcontracts, and shall not delegate or contract these responsibilities to any other entity. This includes, but is not limited to, disputes, claims, protests of award, or other matters of a contractual nature. The Contractor's decision is final and the Subcontractor has no right of appeal to CDA.

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE V. SUBCONTRACTS (Continued)**

- B. In the event any subcontractor is utilized by the Contractor for any portion of this Agreement, the Contractor shall retain the prime responsibility for all the terms and conditions set forth, including but not limited to, the responsibility for preserving the State's copyrights and rights in data in accordance with Article XIX. of this Exhibit, for handling property in accordance with Article VII. of this Exhibit, and ensuring the keeping of, access to, availability of, and retention of records of subcontractors in accordance with Article VI. of this Exhibit.
- C. Funds for this Agreement shall not be obligated in any subcontracts for services beyond the ending date of this Agreement.
- D. The Contractor shall have no authority to contract for, or on behalf of, or incur obligations on behalf of the State.
- E. Copies of subcontracts, Memorandums and/or Letters of Understanding shall be on file with the Contractor and shall be made available for review at the request of CDA.
- F. The Contractor shall monitor the insurance requirements of its subcontractors in accordance with Article XI. of this Exhibit.
- G. The Contractor shall require language in all subcontracts to require all subcontractors to indemnify, defend, and save harmless the Contractor, its officers, agents, and employees from any and all claims and losses accruing to or resulting from any subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with any activities performed for which funds from this Agreement were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Subcontractor(s) in the performance of this Agreement.
- H. The Contractor shall ensure that the Subcontractor will complete all reporting and expenditure documents requested by CDA. These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by CDA.
- I. Prior to the awarding of a subcontract to any for-profit entity, the Contractor shall submit the following to CDA for review and approval:
  - 1. The Request For Proposal or Invitation For Bid
  - 2. All bid proposals received



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE V. SUBCONTRACTS (Continued)**

3. The proposal or bid evaluation documentation, along with the Contractor's rationale for awarding the subcontract to a for-profit entity [22 CCR 7362]

Where a program may be subcontracted to a for-profit organization, the Contractor should include in its contract with the for-profit entity, a requirement for performance of a program-specific audit of the subcontracted program by an independent audit firm.

- J. The Contractor shall require all subcontractors to maintain adequate staff to meet the Subcontractor's Agreement with the Contractor. This staff shall be available to the State for training and meetings which the State may find necessary from time to time.
- K. If a private nonprofit corporation, the Subcontractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
- L. The Contractor shall refer to 2 CFR Part 200, Subpart F Audit Requirements [formerly OMB Circular A-133] in making a determination if a subcontractor relationship exists. If such a relationship exists, then the Contractor shall follow the procurement requirements in the applicable OMB Circular.

**ARTICLE VI. RECORDS**

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

All such records, including confidential records, must be maintained and made available by the Contractor: (1) until an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by CDA's Audit Branch, (2) for such longer period, if any, as is required by applicable statute, by any other clause of this Agreement, or by Sections B and C of this Article, and (3) for such longer period as CDA deems necessary.

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE VI. RECORDS (Continued)**

- B. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for the same periods as specified in Section A. above. The Contractor shall ensure that any resource directories and all client records remain the property of CDA upon termination of this Agreement, and are returned to CDA or transferred to another contractor as instructed by CDA.
- C. In the event of any litigation, claim, negotiation, audit exception, or other action involving the records, all records relative to such action shall be maintained and made available until every action has been cleared to the satisfaction of the State and is so stated in writing to the Contractor.
- D. Adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures reimbursed by the State under this Agreement. If the allowability of expenditures cannot be determined because records or documentation of the Contractor are nonexistent or inadequate according to guidelines set forth in 2 CFR §200.302, the expenditures will be questioned in the audit and may be disallowed by the State during the audit resolution process.
- E. All records containing confidential information shall be handled in a confidential manner in accordance with the requirements for information integrity and security, and in accordance with guidelines set forth in this Article, and Article XVIII. After the authorized period has expired, confidential records shall be shredded and disposed of in a manner that will maintain confidentiality.

**ARTICLE VII. PROPERTY**

- A. Unless otherwise provided for in this Article, property refers to all assets used in operation of this Agreement.
  - 1. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, and intangibles, etc.
  - 2. Property does not include consumable office supplies such as paper, pencils, toner cartridges, file folders, etc.
- B. Property meeting all of the following criteria is subject to the reporting requirements:
  - 1. Has a normal useful life of at least one (1) year
  - 2. Has a unit acquisition cost of at least \$500 (a desktop or laptop setup, including all peripherals is considered a unit, if purchased as a unit)



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

ARTICLE VII. PROPERTY (Continued)

3. Is used to conduct business under this Agreement

C. Additions, improvements, and betterments to assets meeting all of the conditions in Section B above must also be reported. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments enhance the condition of an asset (e.g., extend life, increase service capacity, and lower operating costs). Examples of assets that might be improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.

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

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

E. The Contractor shall keep track of property purchased with funds from this Agreement, and submit to CDA annually with the Closeout, in electronic form, a cumulative inventory of all property furnished or purchased by either the Contractor or the Subcontractor with funds awarded under the terms of this Agreement or any predecessor Agreement for the same purpose. The Contractor shall use the electronic version of the Report of Property Furnished/Purchased with Agreement Funds (CDA 32) to report property to CDA, unless otherwise directed by CDA.

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

1. Date acquired
2. Item description (include model number)
3. CDA tag number or other tag identifying it as CDA property
4. Serial number (if applicable)
5. Purchase cost or other basis of valuation
6. Fund source

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

ARTICLE VII. PROPERTY (Continued)

F. Disposal of Property

1. Prior to disposal of any property purchased by the Contractor or the Subcontractor with funds from this Agreement or any predecessor Agreement, the Contractor must obtain approval from CDA for all items with a unit cost of \$500 or more. Disposition, which includes sale, trade-in, discarding, or transfer to another agency may not occur until approval is received from CDA. The Contractor shall email to CDA the electronic version of the Request to Dispose of Property (CDA 248). CDA will then instruct the AAA on disposition of the property. Once approval for disposal has been received from CDA, the item(s) shall be removed from the Contractor's inventory report.
  2. The Contractor must remove all confidential, sensitive, or personal information from CDA property prior to disposal, including removal or destruction of data on computing devices with digital memory and storage capacity. This includes, but is not limited to, magnetic tapes, flash drives, personal computers, personal digital assistants, cell or smart phones, multi-function printers, and laptops.
- G. The Contractor shall immediately investigate and within five (5) days fully document the loss, destruction, or theft of such property.
- H. The State reserves title to all State-purchased or financed property not fully consumed in the performance of this Agreement, unless otherwise required by federal law or regulations or as otherwise agreed by the parties.
- I. The Contractor shall exercise due care in the use, maintenance, protection, and preservation of such property during the period of the project, and shall assume responsibility for replacement or repair of such property during the period of the project, or until the Contractor has complied with all written instructions from CDA regarding the final disposition of the property.
- J. In the event of the Contractor's dissolution or upon termination of this Agreement, the Contractor shall provide a final property inventory to the State. The State reserves the right to require the Contractor to transfer such property to another entity or to the State.
- K. To exercise the above right, no later than 120 days after termination of this Agreement or notification of the Contractor's dissolution, the State will issue specific written disposition instructions to the Contractor.



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE VII. PROPERTY (Continued)**

- L. The Contractor shall use the property for the purpose for which it was intended under the Agreement. When no longer needed for that use, the Contractor shall use it, if needed, and with written approval of the State for other purposes in this order:
  - 1. Another CDA program providing the same or similar service.
  - 2. Another CDA-funded program.
- M. The Contractor may share use of the property and equipment or allow use by other programs, upon written approval from CDA. As a condition of the approval, CDA may require reimbursement under this Agreement for its use.
- N. The Contractor or subcontractors shall not use equipment or supplies acquired under this Agreement with federal and/or State monies for personal gain or to usurp the competitive advantage of a privately-owned business entity.
- O. If purchase of equipment is a reimbursable item, the equipment to be purchased will be specified in the budget.
- P. The Contractor shall include the provisions contained in this Article in all its subcontracts awarded under this Agreement.

**ARTICLE VIII. ACCESS**

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

**ARTICLE IX. MONITORING AND EVALUATION**

- A. Authorized State representatives shall have the right to monitor and evaluate the Contractor's administrative, fiscal and program performance pursuant to this Agreement. Said monitoring and evaluation may include, but is not limited to, administrative processes, fiscal, data, and procurement components. This will include policies, procedures, procurement, audits, inspections of project premises, and interviews of project staff and participants.

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE IX. MONITORING AND EVALUATION (Continued)**

- B. The Contractor shall cooperate with the State in the monitoring and evaluation processes, which include making any administrative, program and fiscal staff available during any scheduled process.
- C. The Contractor shall monitor contracts and subcontracts to ensure compliance with laws, regulations, and the provisions of contracts that may have a direct and/or material effect on each of its major programs.
- D. The Contractor is responsible for maintaining supporting documentation including financial and statistical records, contracts, subcontracts monitoring reports, and all other pertinent records until an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by CDA.

**ARTICLE X. AUDITS**

- A. Contractors that expend \$750,000 or more in federal funds shall arrange for an audit to be performed as required by the Single Audit Act of 1984, Public Law 98-502; the Single Audit Act Amendments of 1996, Public Law 104-156; and 2 CFR 200.501 to 200.521 [formerly OMB Circular A-133]. A copy shall be submitted to the:

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

The copy shall be submitted within thirty (30) days after receipt of the Auditor's report or nine (9) months after the end of the audit period, whichever occurs first, or unless a longer period is agreed to in advance by the cognizant or oversight agency.

For purposes of reporting in the Schedule of Expenditures of Federal Awards in the audit, the federal grantor is the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services. The Catalog of Federal Domestic Assistance Number is 93.779.

The Contractor shall ensure that State-funded expenditures are displayed discreetly along with the related federal expenditures in the single audit report's "Schedule of Expenditures of Federal Awards" (SEFA) under the Catalog of Federal Domestic Assistance (CFDA) number 93.779.

For State contracts that do not have CFDA numbers, the Contractor shall ensure that the State-funded expenditures are discretely identified in the SEFA by the



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE X. AUDITS (Continued)**

appropriate program name, identifying grant/contract number, and as passed through CDA.

- B. The Contractor shall perform a reconciliation of the "Financial Closeout Report" to the audited financial statements, single audit, and general ledgers. The reconciliation shall be maintained and made available for CDA review.
- C. The Contractor shall have the responsibility for resolving its contracts with subcontractors to determine whether funds provided under this Agreement are expended in accordance with applicable laws, regulations, and provisions of contracts or agreements.

Contract resolution includes:

- 1. Ensuring that subcontractors expending \$750,000 or more in federal awards during the Subcontractor's fiscal year have met the audit requirements of 2 CFR §200.501-§200.521 [formerly OMB Circular A-133] as summarized in Section D and E of this Article.
- 2. Issuing a management decision on audit findings within six (6) months after receipt of the Subcontractor's single audit report and ensuring that the Subcontractor takes appropriate and timely corrective action.
- 3. Reconciling expenditures reported to the Contractor to the amounts identified in the single audit or other type of audit, if the Subcontractor was not subject to the single audit requirements. For a subcontractor who was not required to obtain a single audit and did not obtain another type of audit, the reconciliation of expenditures reported to CDA must be accomplished through performing alternative procedures (e.g., risk assessment [2 CFR 200.331], documented review of financial statements, and documented expense verification, including match, etc.).
- 4. When alternative procedures are used, the Contractor shall perform financial management system testing , which provides, in part, for the following:
  - a. Accurate, current, and complete disclosure of the financial results of each federal award or program
  - b. Records that identify adequately the source and application of funds for each federally funded activity.

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

ARTICLE X. AUDITS (Continued)

- c. Effective control over, and accountability for, all funds, property, and other assets to ensure these items are used solely for authorized purposes.
- d. Comparison of expenditures with budget amounts for each federal award.
- e. Written procedures to implement the requirements of 2 CFR 200.305.
- f. Written procedures for determining the allowability of costs in accordance with 2 CFR Part 200, Subpart E—Cost Principles.

[2 CFR 200.302]

- 5. The Contractor shall document system and expense testing to show an acceptable level of reliability, including a review of actual source documents.
  - 6. Determining whether the results of the reconciliations performed necessitate adjustment of the Contractor's own records.
- D. The Contractor shall ensure that subcontractor single audit reports meet 2 CFR Part 200, Subpart F - Audit Requirements [formerly OMB Circular A-133] requirements:
- 1. Performed timely – not less frequently than annually and a report submitted timely. The audit is required to be submitted within thirty (30) days after receipt of the auditor's report or nine (9) months after the end of the audit period, whichever occurs first. [2 CFR 200.512]
  - 2. Properly procured – use procurement standards for auditor selection [2 CFR 200.509]
  - 3. Performed in accordance with Generally Accepted Government Auditing Standards [2 CFR 200.514]
  - 3. All inclusive – includes an opinion (or disclaimer of opinion) of the financial statements; a report on internal control related to the financial statements and major programs; an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts; and the schedule of findings and questioned costs. [2 CFR 200.515]



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

ARTICLE X. AUDITS (Continued)

4. Performed in accordance with provisions applicable to this program as identified in [2 CFR Part 200, Subpart F Audit Requirements] [formerly OMB Circular A-133 Compliance Supplement].
- E. Requirements identified in Sections D and E of this Article shall be included in contracts with the Subcontractor. Further, the Subcontractor shall be required to include in its contract with the independent auditor that the auditor will comply with all applicable audit requirements/standards; CDA shall have access to all audit reports and supporting work papers, and CDA has the option to perform additional work, as needed.
- F. The Contractor shall prepare a summary worksheet of results from the contract resolutions performed of all subcontractors. The summary worksheet shall include, but not be limited to, contract amounts; amounts resolved; amounts of match verified, resolution of variances; recovered amounts; whether an audit was relied upon or the Contractor performed an independent expense verification review (alternative procedures) of the Subcontractor in making a determination; whether audit findings were issued; and, if applicable, issuance date of the management letter and any communication or follow-up performed to resolve the findings.
- G. A reasonably proportionate share of the costs of audits required by, and performed in accordance with, the Single Audit Act Amendments of 1996, as implemented by requirements of this part, are allowable. However, the following audit costs are unallowable:
  1. Any costs when audits required by the Single Audit Act and 2 CFR Part 200, Subpart F—Audit Requirements have not been conducted or have been conducted but not in accordance therewith; and
  2. Any costs of auditing a non-federal entity that is exempted from having an audit conducted under the Single Audit Act and 2 CFR Part 200, Subpart F—Audit Requirements because its expenditures under federal awards are less than \$750,000 during the non-federal entity's fiscal year.
    - a. The costs of a financial statement audit of a non-federal entity that does not currently have a federal award may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal.
    - b. Pass-through entities may charge federal awards for the cost of agreed-upon-procedures engagements to monitor subcontractors who are exempted from the requirements of the Single Audit Act and 2 CFR Part 200, Subpart F—Audit Requirements. This cost is

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE X. AUDITS (Continued)**

allowable only if the agreed-upon-procedures engagements are conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) attestation standards; paid for and arranged by the pass-through entity; and limited in scope to one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; and reporting.

[2 CFR 200.425]

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

**ARTICLE XI. INSURANCE**

- A. Prior to commencement of any work under this Agreement, the Contractor shall provide for the term of this Agreement, the following insurance:
1. General liability of not less than \$1,000,000 per occurrence for bodily injury and property damage combined. Higher limits may be required by the State in cases of higher than usual risks.
  2. Automobile liability including non-owned auto liability, of not less than \$1,000,000 for volunteers and paid employees providing services supported by this Agreement.
  3. If applicable, or unless otherwise amended by future regulation, the Contractor and subcontractors shall comply with the Public Utilities Commission General Order No. 115-F which requires higher levels of insurance for charter-party carriers of passengers and is based on seating capacity as follows:
    - a. \$750,000 if seating capacity is under 8
    - b. \$1,500,000 if seating capacity is 8 – 15
    - c. \$5,000,000 if seating capacity is over 15
  4. Professional liability of not less than \$1,000,000 as it appropriately relates to the services rendered. Coverage shall include medical malpractice and/or errors and omissions.



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

ARTICLE XI. INSURANCE (Continued)

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

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE XI. INSURANCE (Continued)**

- H. A copy of each appropriate Certificate of Insurance or letter of self-insurance, referencing this Agreement number, shall be submitted to CDA with this Agreement.
- I. The Contractor shall be insured against liability for Worker's Compensation or undertake self-insurance in accordance with the provisions of the Labor Code and the Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. [Labor Code Section 3700].

**ARTICLE XII. TERMINATION**

A. Termination Without Cause

CDA may terminate performance of work under this Agreement, in whole or in part, without cause, if CDA determines that a termination is in the State's best interest. CDA may terminate the Agreement upon ninety (90) days written notice to the Contractor. The Notice of Termination shall specify the extent of the termination and shall be effective ninety (90) days from the delivery of the Notice. The parties agree that if the termination of the contract is due to a reduction or deletion of funding by the Department of Finance (DOF), Legislature or Congress, the Notice of Termination shall be effective thirty (30) days from the delivery of the notice. The Contractor shall submit to CDA a Transition Plan as specified in Exhibit E of this Agreement. The parties agree that for the terminated portion of the Agreement, the remainder of Agreement shall be deemed to remain in effect and is not void.

B. Termination for Cause

CDA may terminate, in whole or in part, for cause the performance of work under this Agreement. CDA may terminate the Agreement upon thirty (30) days written notice to the Contractor. The Notice of Termination shall be effective thirty (30) days from the delivery of the Notice of Termination unless the grounds for termination are due to threat to life, health or safety of the public and in that case the termination shall take effect immediately. The Contractor shall submit to CDA a Transition Plan as specified in Exhibit E of this Agreement. The grounds for termination for cause shall include but are not limited to, the following:

- 1. In case of threat of life, health or safety of the public, termination of the Agreement shall be effective immediately.
- 2. A violation of the law or failure to comply with any condition of this Agreement.



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE XII. TERMINATION (Continued)**

3. Inadequate performance or failure to make progress so as to endanger performance of this Agreement.
4. Failure to comply with reporting requirements.
5. Evidence that the Contractor is in an unsatisfactory financial condition as determined by an audit of the Contractor or evidence of a financial condition that endangers performance of this Agreement and/or the loss of other funding sources.
6. Delinquency in payment of taxes or payment of costs for performance of this Agreement in the ordinary course of business.
7. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the Contractor.
8. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income.
9. The commission of an act of bankruptcy.
10. Finding of debarment or suspension.
11. The Contractor's organizational structure has materially changed.
12. CDA determines that the Contractor may be considered a "high risk" agency as described in 45 CFR 92.12 for local government and 45 CFR 74.14 for non-profit organizations. If such a determination is made, the Contractor may be subject to special conditions or restrictions.

**C. Contractor's Obligation After Notice of Termination**

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

The Contractor shall:

1. Stop work as specified in the Notice of Termination.

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE XII. TERMINATION (Continued)**

2. Place no further subcontracts for materials or services, except as necessary, to complete the continued portion of the contract.
3. Terminate all subcontracts to the extent they relate to the work terminated.
4. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, (the approval or ratification of which will be final for purposes of this clause).

**D. Effective Date**

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

**E. Notice of Intent to Terminate by Contractor**

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

**F. In the Event of a Termination Notice**

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

**ARTICLE XIII. REMEDIES**

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



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE XIV. DISSOLUTION OF ENTITY**

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

**ARTICLE XV. AMENDMENTS, REVISIONS OR MODIFICATIONS**

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

**ARTICLE XVI. NOTICES**

- A. Any notice to be given hereunder by either party to the other may be effected by personal delivery in writing or by registered or certified mail, overnight mail, postage prepaid, return receipt requested, provided the Contractor retains receipt, and shall be communicated as of actual receipt.
- B. Any notice given to CDA for the Contractor's change of legal name, main address, or name of the Director shall be addressed to the Director of CDA on the Contractor's letterhead.
- C. All other notices with the exception of those identified in Section B. of this Article shall be addressed to the California Department of Aging, AAA Based Teams, 1300 National Drive, Suite 200, Sacramento, California, 95834. Notices mailed to the Contractor shall be to the address indicated on the coversheet of this Agreement.
- D. Either party may change its address by written notice to the other party in accordance with this Article.

**ARTICLE XVII. DEPARTMENT CONTACT**

- A. The name of CDA's contact to request revisions, waivers, or modifications affecting this Agreement, will be provided by the State to the Contractor upon full execution of this Agreement.
- B. The Contractor shall, upon request from CDA, submit the name of its Agency Contract Representative (ACR) for this Agreement by submitting an Agency Contract Representative form to CDA's Contracts and Business Services

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE XVII. DEPARTMENT CONTACT (Continued)**

Section. This form requires the ACR's address, phone number, email address, and FAX number to be included on this form. For any change in this information, the Contractor shall submit an amended Agency Contract Representative form to the same address. This form may be requested from CDA's Contracts and Business Services Section.

**ARTICLE XVIII. INFORMATION, INTEGRITY, AND SECURITY**

**A. Information Assets**

The Contractor shall have in place operational policies, procedures, and practices to protect State information assets (i.e., public, confidential, sensitive and/or personal information) as specified in the State Administrative Manual, Section 5300 to 5365.3; Cal. Gov. Code §11019.9, DGS Management Memo 06 12; DOF Budget Letter 06-34; and CDA Program Memorandum 07-18 Protection of Information Assets.

Information assets include (but are not limited to):

1. Information collected and/or accessed in the administration of the State programs and services.
2. Information stored in any media form, paper or electronic.

**B. Encryption on Portable Computing Devices**

The Contractor is required to encrypt data collected under this Agreement that is confidential, sensitive, and/or personal including data stored on portable computing devices (including but not limited to, laptops, personal digital assistants, notebook computers and backup media) and/or portable electronic storage media (including but not limited to, discs, thumb/flash drives, portable hard drives, and backup media).

**C. Disclosure**

1. The Contractor shall ensure that personal, sensitive and confidential information is protected from inappropriate or unauthorized access or disclosure in accordance with applicable laws, regulations and State policies. The requirement to protect information shall remain in force until superseded by laws, regulations or policies.
2. The Contractor shall protect from unauthorized disclosure names and other identifying information, concerning persons receiving services



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

ARTICLE XVIII. INFORMATION, INTEGRITY, AND SECURITY (Continued)

pursuant to this Agreement, except for statistical information not identifying any participant.

3. "Identifying information" shall include, but not be limited to: name; identifying number; social security number; state driver's license or state identification number; financial account numbers; and symbol or other identifying characteristic assigned to the individual, such as finger or voice print or a photograph.
4. The Contractor shall not use the identifying information in paragraph 3 above for any purpose other than carrying out the Contractor's obligations under this Agreement.
5. The Contractor shall not, except as otherwise specifically authorized or required by this Agreement or court order, disclose any identifying information obtained under the terms of this Agreement to anyone other than CDA without prior written authorization from CDA. The Contractor may be authorized, in writing, by a participant to disclose identifying information specific to the authorizing participant.
6. The Contractor may allow a participant to authorize the release of information to specific entities, but shall not request or encourage any participant to give a blanket authorization or sign a blank release, nor shall the Contractor accept such blanket authorization from any participant.

D. Training/Education

1. The Contractor must provide ongoing education and training, at least annually, to all employees and subcontractors who handle personal, sensitive or confidential information. The Contractor's employees, subcontractors, and volunteers must complete the required Security Awareness Training module located at [www.aging.ca.gov](http://www.aging.ca.gov) within thirty (30) days of the start date of the Contract/Agreement or within thirty (30) days of the start date of any new employee, subcontractor or volunteer. The Contractor must maintain certificates of completion on file and provide them to CDA upon request. Training may be provided on an individual basis or in groups. A sign-in sheet is acceptable documentation for group training in lieu of individual certificates. If internet access is not available, a hardcopy of the training module may be provided to employees and/or volunteers for their completion.
2. The Contractor may substitute CDA's Security Awareness Training program with its own Security Training provided such training meets or

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE XVIII. INFORMATION, INTEGRITY, AND SECURITY (Continued)**

exceeds CDA's training requirement. Contractors shall maintain documentation of training and education provided to their staff, volunteers, and/or subcontractors.

3. All employees and volunteers who handle personal, sensitive, or confidential information relating to CDA's programs must participate in Security Awareness Training.

**E. Health Insurance Portability and Accountability Act (HIPAA)**

The Contractor agrees to comply with the privacy and security requirements of HIPAA to the extent applicable and to take all reasonable efforts to implement HIPAA requirements. The Contractor will make reasonable efforts to ensure that subcontractors comply with the privacy and security requirements of HIPAA.

**F. Contractor Confidentiality Statement**

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

**G. Security Incident Reporting**

A security incident occurs when CDA information assets are accessed, modified, destroyed, or disclosed without proper authorization, or are lost or stolen. The Contractor must report all security incidents to the appropriate CDA Program Manager immediately upon detection. A Security Incident Report (CDA 1025) form must be submitted to the CDA Information Security Officer within five (5) business days of the date the incident was detected.

**H. Notification of Security Breach to Data Subjects**

1. Notice must be given by the Contractor or subcontractors to any data subject whose personal information could have been breached.
2. Notice must be given in the most expedient time possible and without unreasonable delay except when notification would impede a criminal investigation or when necessary measures to restore system integrity are required.
3. Notice may be provided in writing, electronically, or by substitute notice in accordance with State law, regulation, or policy.



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE XVIII. INFORMATION, INTEGRITY, AND SECURITY (Continued)**

I. Software Maintenance

The Contractor shall apply security patches and upgrades and keep virus software up-to-date on all systems on which State data may be used.

J. Electronic Backups

The Contractor shall ensure that all electronic information is protected by performing regular backup of automated files and databases and ensure the availability of information assets for continued business. The Contractor shall ensure that any portable electronic media used for backups is encrypted.

K. Provisions of this Article

The provisions contained in this Article shall be included in all contracts of both the Contractor and its subcontractors.

**ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA**

A. Copyrights

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

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA (Continued)**

**B. Rights in Data**

1. The Contractor shall not publish or transfer any materials, as defined in paragraph 2 below, produced or resulting from activities supported by this Agreement without the express written consent of the Director of CDA. That consent shall be given or the reasons for denial shall be given and any conditions under which it is given or denied within thirty (30) days after the written request is received by CDA. CDA may request a copy of the material for review prior to approval of the request. This subsection is not intended to prohibit the Contractor from sharing identifying client information authorized by the participant or summary program information which is not client-specific.
2. As used in this Agreement, the term "subject data" means writings, sound recordings, pictorial reproductions, drawings, designs or graphic representations, procedural manuals, forms, diagrams, workflow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are first produced or developed under this Agreement. The term does not include financial reports, cost analyses, and similar information incidental to contract administration, or the exchange of that information between AAAs to facilitate uniformity of contract and program administration on a statewide basis.
3. Subject only to the provisions of this Exhibit, the State may use, duplicate, or disclose in any manner, and have or permit others to do so subject to State and federal law all subject data delivered under this Agreement.
4. Materials published or transferred by the Contractor and financed with funds under this Agreement shall:
  - a. Include an acknowledgement that "This publication has been created or produced by [contractor/subcontractor] with financial assistance, in whole or in part, through a grant from the Centers for Medicare & Medicaid Services, the Federal Medicare agency, and the California Department of Aging."
  - b. Use the SHIP logo and tagline on all publications.
  - c. Give the name of the entity, the address, and telephone number at which the supporting data is available.



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA (Continued)**

- d. Include a statement that "The conclusions and opinions expressed may not be those of the California Department of Aging or the Centers for Medicare & Medicaid Services, the Federal Medicare agency, and that the publication may not be based upon or inclusive of all raw data."

**ARTICLE XX. BILINGUAL AND LINGUISTIC PROGRAM SERVICES [Cal. Gov. Code § 11135 to-11139.5] [22 CCR 98211, 98310 to-98314, 98324 to- 98326, 98340 to-98370]**

**A. Needs Assessment**

1. The Contractor shall conduct a cultural and linguistic group-needs assessment of the eligible client population in the Contractor's service area to assess the language needs of the population and determine what reasonable steps are necessary to ensure meaningful access to services and activities to eligible individuals. [22 CCR 98310, 98314]

The group-needs assessment shall take into account the following four factors:

- a. Number or proportion of persons with Limited English Proficiency (LEP) eligible to be served or encountered by the program.
- b. Frequency with which LEP individuals come in contact with the program.
- c. Nature and importance of the services provided.
- d. Local or frequently used resources available to the Contractor

This group-needs assessment will serve as the basis for the Contractor's determination of "reasonable steps" and provide documentary evidence of compliance with Cal. Gov. Code § 11135 et seq; 22 CCR 98000 to-98382.

2. The Contractor shall prepare and make available a report of the findings of the group-needs assessment that summarizes:
  - a. Methodologies used.
  - b. The linguistic and cultural needs of non-English speaking or LEP groups.

**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE XX. BILINGUAL AND LINGUISTIC PROGRAM SERVICES [GC 11135 -1139.5]**  
**[Title 22 CCR Sections 98211, 98310-98314, 98324- 98326, 98340, 98370] (Continued)**

- c. Services proposed to address the needs identified and a timeline for implementation. [22 CCR 98310]
  - 3. The Contractor shall maintain a record of the group-needs assessment on file at the Contractor's headquarters at all times during the term of this Agreement. [22 CCR 98310, 98313]
- B. Provision of Services
- 1. The Contractor shall take reasonable steps, based upon the group-needs assessment identified in Section A of this Article, to ensure that "alternative communication services" are available to non-English speaking or LEP beneficiaries of services under this Agreement. [22 CCR 98211]
  - 2. "Alternative communication services" include, but are not limited to, the provision of services and programs by means of the following:
    - a. Interpreters or bilingual providers and provider staff.
    - b. Contracts with interpreter services.
    - c. Use of telephone interpreter lines.
    - d. Sharing of language assistance materials and services with other providers.
    - e. Translated written information materials, including but not limited to, enrollment information and descriptions of available services and programs.
    - f. Referral to culturally and linguistically appropriate community service programs.
  - 3. Based upon the findings of the group-needs assessment, the Contractor shall ensure that reasonable alternative communication services are available to meet the linguistic needs of identified eligible client population groups at key points of contact. Key points of contact include, but are not limited to, telephone contacts, office visits and in-home visits. [22 CCR 98211]
  - 4. The Contractor shall self-certify to compliance with the requirements of



**Special Terms and Conditions - Exhibit D**  
**HICAP Fiscal Year 2015-16**

**ARTICLE XX. BILINGUAL AND LINGUISTIC PROGRAM SERVICES [GC 11135 -1139.5]**  
**[Title 22 CCR Sections 98211, 98310-98314, 98324- 98326, 98340, 98370] (Continued)**

this section and shall maintain the self-certification record on file at the Contractor's office at all times during the term of this Agreement.  
[22 CCR 98310]

5. The Contractor shall notify its employees of clients' rights regarding language access and the Contractor's obligation to ensure access to alternative communication services where determined appropriate based upon the needs assessment conducted by the Contractor.  
[22 CCR 98324]
6. Noncompliance with this section may result in suspension or termination of funds and/or termination of this Agreement. [22 CCR 98370]

**C. Compliance Monitoring**

1. The Contractor shall develop and implement policies and procedures for assessing and monitoring the performance of individuals and entities that provide alternative communication services to non-English and LEP clients. [22 CCR 98310]
2. The Contractor shall monitor, evaluate, and take effective action to address any needed improvement in the delivery of culturally and linguistically appropriate services. [22 CCR 98310]
3. The Contractor shall permit timely access to all records of compliance with this section. Failure to provide access to such records may result in appropriate sanctions. [22 CCR 98314]

**D. Notice to Eligible Beneficiaries of Contracted Services**

1. The Contractor shall designate an employee to whom initial complaints or inquiries regarding national origin can be directed. [22 CCR 98325]
2. The Contractor shall make available to ultimate beneficiaries of contracted services and programs information regarding CDA's procedure for filing a complaint and other information regarding the provisions of Cal. Gov. Code § 11135 et seq. [22 CCR 98326]
3. The Contractor shall notify CDA immediately of a complaint alleging discrimination based upon a violation of State or federal law.  
[22 CCR 98211, 98310, 98340]

**Additional Provisions - Exhibit E**  
**HICAP - Fiscal Year 2015-16**

**ARTICLE I. ASSURANCES SPECIFIC TO HICAP**

- A. The Contractor shall assure, either as a direct or contracted HICAP, that the following conditions are met:
  - 1. Services are provided only to the defined Eligible Service Population.
  - 2. Staffing shall be adequate to cover all contract requirements and timelines of the Program. The Program Manager shall manage the Program at least thirty-two (32) hours per week. The equivalent of at least one half-time paid Volunteer Coordinator shall assist the Program Manager in coordinating the activities of volunteers.
  - 3. Assure that the Program Manager for HICAP has general oversight of the HICAP services and sole authority to recommend persons for HICAP Counselor registration, to file industry complaints, and to refer HICAP clients to legal services.
  - 4. Provide that all persons affiliated with the Program and who are counseling, including paid personnel and volunteers, are trained and registered with the State as HICAP Counselors in accordance with laws, regulations, and the HICAP Program Manual.
- B. The Contractor shall assure, either as a direct or contracted HICAP, compliance with the State Conflict of Interest Requirements as it pertains to HICAP services as follows:
  - 1. The Contractor shall assure that project staff and volunteers do not engage in the solicitation of insurance; nor endorse any Medicare supplement, long-term care, or other insurance policies or plans; nor endorse the services of any insurer or managed care plan, claims processing organization, or other enterprise that could benefit from activities conducted by the HICAP. All project staff and volunteers shall provide HICAP educational services in a manner that is objective and impartial and provide counseling consistent with the best interests of the clients and which preserves the independent decision-making responsibilities of the client.
  - 2. The Contractor shall assure that the project, project staff, and volunteers shall not have a conflict of interest such as, but not limited to, a business relationship with insurers, health plans, or organizations posing a conflict of interest. The Contractor shall assure that project staff and volunteers do not accept money or gifts from the clientele in exchange for services in accordance with CDA guidance on conflict of interest and the HICAP Program Manual.



**Additional Provisions - Exhibit E**  
**HICAP - Fiscal Year 2015-16**

**ARTICLE I. ASSURANCES SPECIFIC TO HICAP (Continued)**

3. The Contractor shall take all reasonable and necessary measures to assure that advisors, employees, and volunteers associated with the operation of HICAP agree to act in a manner so as to prevent the appearance of impropriety, or any other act which would place in jeopardy HICAP's reputation as an independent and impartial program. The Contractor shall assure that advisors and governing board members shall recuse themselves from HICAP business if they are employed by, or receive compensation from, the health insurance or managed health care industries. This shall not preclude the Contractor from soliciting program contributions from entities that do not pose a conflict of interest.

**ARTICLE II. REPORTING PROVISIONS**

- A. The Contractor shall ensure, either as a direct or contracted HICAP, that program data is entered into the State HICAP Automated Reporting Program (SHARP) in accordance with CDA requirements [Welf. & Inst. Code §9541(c)(8)]. Data entered must be timely, complete, accurate, and verifiable.
  1. The Contractor shall review and approve program performance data entered into SHARP.
  2. The Contractor, either as a direct or contracted HICAP, shall review and approve program performance data in the following manner:
    - a. The Contractor shall certify by email to the Contractor's assigned CDA HICAP Team Analyst that the Contractor has reviewed and approved the data by the 15<sup>th</sup> day of each month following the reporting period for the length of this Agreement, as follows:

<b>Reporting Period</b>	<b>Due Date</b>
April 1 – April 30	May 15
May 1 – May 31	June 15
June 1 – June 30	July 15
July 1 – July 31	August 15
August 1 – August 31	September 15
September 1 – September 30	October 15
October 1 – October 31	November 15
November 1 – November 30	December 15
December 1 – December 31	January 15
January 1 – January 31	February 15
February 1 – February 28	March 15
March 1 – March 31	April 15

**Additional Provisions - Exhibit E**  
**HICAP - Fiscal Year 2015-16**

**ARTICLE II. REPORTING PROVISIONS (Continued)**

- b. If the Contractor fails to send an email to the CDA HICAP Team verifying it has reviewed and approved program data by the due date, CDA will assume the Area Agency on Aging (AAA) has reviewed and approved the data and will use the AAA data for submission to the federal National Performance Report system.
- B. The Contractor, either as a direct or contracted HICAP, shall train and orient staff and subcontractor's staff regarding program data collection and reporting requirements. The Contractor shall have cross-trained staff in the event of planned or unplanned, prolonged absences to ensure timely and accurate submission of data. [45 CFR 1321.55(b)]

**ARTICLE III. CONTINUITY OF SERVICE AND TRANSITION PLAN**

- A. In the event of a change in HICAP subcontractors, the Contractor shall assure that a subsequent HICAP subcontractor is available to complete any open cases or transactions during the transition period. This shall include Medicare appeals and timelines with the Centers for Medicare & Medicaid Services or hearing officers.

B. Transition Plan

The Contractor shall submit a transition plan to CDA within fifteen (15) days of CDA's written Notice of Termination or Contractor's Notice of Intent to Terminate. The transition plan must be approved by CDA and shall at a minimum include the following:

- 1. A description of how open or active counseling and legal cases (if applicable) shall be transitioned to the new contractor.
- 2. A description of how names, addresses, and telephone numbers of current clients will be handled and transferred to the new contractor.
- 3. A description of how clients will be notified about the change in and continuation of, their HICAP services.
- 4. Description of how communications with other HICAP sites, local agencies and advocacy organizations shall be made to assist in locating alternative services as needed.
- 5. A description of how community referral sources will be informed of the pending termination of this HICAP contract or subcontract and the transition and provision of services.



**Additional Provisions - Exhibit E**  
**HICAP - Fiscal Year 2015-16**

**ARTICLE III. CONTINUITY OF SERVICE AND TRANSITION PLAN (Continued)**

6. A description of how sensitive and confidential records will be transferred.
  7. A description of adequate staff to provide continued service through the term of the existing contract. [22 CCR 7206(e)(4)]
  8. A plan to conduct a property inventory and transfer, or return to CDA all equipment purchased with HICAP funds as directed by CDA.
  9. Additional information as necessary to effect a safe transition of clients from the outgoing Contractor or Subcontractor to the new Contractor or Subcontractor.
- C. Require a subcontractor, in the event of a change of a HICAP subcontractor providing services, either as a result of a routine procurement process or a subcontract termination, to submit a transition plan to the Contractor upon written Notice of Termination by the Contractor or Notice of Intent to Terminate by the Subcontractor. The Contractor shall submit the transition plan to CDA at least fifteen (15) days prior to the termination of the subcontract, in accordance with Exhibit E, Article III. of this Agreement. The transition plan must be approved by CDA prior to implementation.
- D. The Contractor shall implement the transition plan as approved by CDA.
- E. CDA will monitor the Contractor's progress in carrying out all elements of the transition plan.