

MEMORANDUM OF UNDERSTANDING
between the
CALIFORNIA DEPARTMENT OF AGING
and
AREA 4 AGENCY ON AGING
for
Coordination of Older Americans Act Services to
Residents of
Planning Service Area 04

This MOU shall become effective July 1, 2024 and shall remain in effect until June 30, 2029.

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Executive Director
Area 4 Agency on Aging
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Sacramento, CA 95815

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California Department of Aging
2880 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833

MEMORANDUM OF UNDERSTANDING BETWEEN
THE CALIFORNIA DEPARTMENT OF AGING (CDA) AND
AREA 4 AGENCY ON AGING

1. PURPOSE

This Memorandum of Understanding (MOU) is entered into between the California Department of Aging, hereinafter referred to as "CDA," and Area 4 Agency on Aging, hereinafter referred to as "Area 4 Agency on Aging" or "AAA," in compliance with federal law (42 USC § 3001 et seq.), state law (Welfare and Institutions Code, Division 8.5), federal and/or state regulations, and any other authorities or policies.

This MOU provides the transfer or continued transfer of responsibility for Older Americans Act (OAA) and Older Californians Act (OCA) assistance and/or related support services to eligible older adults, adults with disabilities, family caregivers, and residents in long-term care facilities within Area 4 Agency on Aging's service area.

2. PARTIES

"Parties" shall mean Area 4 Agency on Aging and CDA. Each individually is a "Party."

3. POLICY

Area 4 Agency on Aging has been approved by the Administration for Community Living (ACL) to administer OAA and OCA activities in accordance with 42 USC § 3001 et seq., and Welfare and Institutions Code (WIC), Division 8.5.

4. APPLICABLE PROGRAMS

The programs selected below are applicable to this MOU between Area 4 Agency on Aging and CDA.

- Area Plan (AP)
- Health Insurance Counseling and Advocacy Program (HICAP)
- Medicare Improvements for Patients and Providers Act (MIPPA)
- Title V Senior Community Services Program (TV SCSEP)

5. DEPARTMENT CONTACT

- A. The name of CDA's contact to request revisions, waivers, or modifications affecting this MOU or the Program Guide (as referenced in Section 10, below), will be provided by the State to the AAA upon full execution of this MOU.
- B. AAA shall submit to CDA changes to AAA's legal name, main address, and remit to address to bmbsubvention@aging.ca.gov.
- C. AAA shall submit to CDA changes to AAA Director or any key staff to be added or removed from the distribution list by submitting a Contact Report to AAAcontactinfo@aging.ca.gov. You may request the Contact Report by emailing AAAcontactinfo@aging.ca.gov.

6. 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 AAA retains receipt, and shall be communicated as of actual receipt.
- B. All other notices, apart from those identified in Section 5 of this MOU, shall be addressed to the California Department of Aging, AAA Based Teams, 2880 Gateway Oaks Drive, Suite 200, Sacramento, California, 95833. Notices mailed to the AAA shall be to the address indicated on the coversheet of this MOU.
- C. Either Party may change its address by written notice to the other Party in accordance with Section 5.

7. COMMENCEMENT OF WORK

Should the AAA or its subcontractor begin work in advance of receiving notice that this MOU is approved, that work may be considered as having been performed at risk as a volunteer and may not be reimbursed or compensated and done at risk of assuming any and all liabilities that stem from said work.

8. RESPONSIBILITIES

- A. MOU Authorization
 - i. If a public entity, the AAA shall submit to CDA a copy of an approved resolution, order, or motion referencing this MOU number authorizing execution of this MOU. If a private nonprofit entity, the

AAA shall submit to CDA an authorization by the Board of Directors to execute this MOU, referencing this MOU number.

- ii. These documents, including minute orders must also identify the action taken.
- iii. 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 MOU. This requirement may also be met by a single resolution from the Governing Board of the AAA authorizing the AAA Director or designee to execute the original and all subsequent amendments to this MOU.

B. UEI Number and Related Information

- i. The Unique Entity Identifier changed from the DUNS Number to the Unique Entity ID (generated by SAM.gov) on April 4, 2022. The UEI number must be provided to CDA prior to the execution of this MOU. Business entities may register for a UEI number at <https://sam.gov/content/duns-uei>.
- ii. The AAA must register the UEI number and maintain an “Active” status within the federal System for Award Management available online at <https://www.sam.gov/portal/SAM/#1>.
- iii. If CDA cannot access or verify “Active” status by way of the AAA’s UEI information, which is related to this federal subaward on the Federal Funding Accountability and Transparency Act Subaward Reporting System (SAM.gov) due to errors in the AAA’s data entry for its UEI number, the AAA must immediately update the information as required.

E. Consultation

- i. CDA will issue a Program Guide and Program Memos to provide guidance, insight, and direction to the AAAs on topics related to the activities applicable to this MOU.
- ii. CDA and the AAA shall follow guidance provided by the Program Guide and Program Memos to promote cooperation, communication, and coordination of service and program implementation.

9. ASSURANCES

A. Standards of Work

The AAA agrees that the performance of work and services pursuant to the requirements of this MOU and the Program Guide shall conform to accepted professional standards.

B. Corporate Status

- i. The AAA shall be a public entity, private nonprofit entity, or Joint Powers Authority (JPA). If a private nonprofit corporation or JPA, the AAA shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of this MOU.
- ii. The AAA shall ensure that any subcontractors providing services under this MOU shall be of sound financial status.
- iii. 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 MOU.
- iv. Failure to maintain good standing by the AAA shall result in suspension or termination of this MOU 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 AAA until satisfactory status is restored.

C. Nondiscrimination

The AAA shall comply with all federal statutes relating to nondiscrimination. These include those statutes and laws contained in the Contractor Certification Clauses (CCC 04/2017), located <https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/Standard-Contract-Language>, which is hereby incorporated by reference. The CCC 04/2017 is required to be signed and submitted to CDA once every three (3) years and shall be furnished upon request by CDA. In addition, the AAA shall comply with the following:

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

The AAA shall ensure compliance with Title VI of the Civil Rights Act of 1964 [42 USC 2000d; 45 CFR 80], which prohibits recipients

of federal financial assistance from discriminating against persons based on race, color, religion, or national origin.

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

The AAA shall, unless exempted, ensure compliance with the requirements of Cal. Gov. Code § 11135 et seq. and 2 CCR § 11140 et seq., which prohibit recipients of state funds from discriminating against persons based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. [See 22 CCR § 98323.]

iii. California Civil Rights Laws

The AAA shall ensure compliance with the requirements of California Public Contract Code § 2010 by submitting a completed California Civil Rights Laws Certification prior to execution of this MOU. The certificate is available at:
<http://www.dgs.ca.gov/ols/Forms.aspx>.

The California Civil Rights Laws Certification ensures the AAA's compliance with the Unruh Civil Rights Act (Cal. Civ. Code § 51) and the Fair Employment and Housing Act (Cal. Gov. Code § 12960) and further ensures that the AAA's internal policies are not used in violation of California Civil Rights Laws.

iv. The AAA 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. [See 42 USC § 12101 et seq.]

v. The AAA agrees to include these requirements in all contracts it enters into with subcontractors to provide services pursuant to this MOU and the Program Guide.

D. Lobbying Certification

The AAA, by signing this MOU, certifies to the best of its knowledge and belief, that:

- i. No federally appropriated funds have been paid or will be paid, by or on behalf of the AAA, 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.

- ii. 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 connection with this federal contract, grant, loan, or cooperative agreement, the AAA shall complete and submit [Standard Form-LLL, Disclosure Form](#) to Report Lobbying, in accordance with its instructions.
- iii. The AAA shall require that the language of the lobbying 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.
- iv. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.
- v. This certification is a prerequisite for making or entering into this transaction imposed by 31 USC § 1352.
- vi. 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.

E. Conflict of Interest

- i. The AAA 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 associated with the conflict of interest may be disallowed by the State and such conflict may constitute grounds for termination of the MOU.
- ii. This provision shall not be construed to prohibit employment of persons with whom the AAA'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 an open and competitive merit basis.

F. Covenant Against Contingent Fees

- i. The AAA warrants that no person or selling agency has been employed or retained to solicit the work outlined within this MOU and the Program Guide. There has been no agreement to make commission payments in order to obtain the work outlined within this MOU and the Program Guide.
- ii. For breach or violation of this warranty, CDA shall have the right to terminate the MOU without liability or at its discretion to deduct from the program allocation or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingency fee.

G. Payroll Taxes and Deductions

The AAA 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. Program Allocations in Excess of \$100,000

- i. If all funding provided in support of the services outlined within this MOU and the Program Guide exceeds \$100,000, the AAA shall comply with all applicable orders or requirements issued under the following laws:
 1. Clean Air Act, as amended. (42 USC § 7401)
 2. Federal Water Pollution Control Act, as amended. (33 USC § 1251 et seq.)
 3. Environmental Protection Agency Regulations (40 CFR 29) (Executive Order 11738)
 4. State Contract Act (Cal. Pub. Con. Code § 10295 et seq.)
 5. Unruh Civil Rights Act (Cal. Pub. Con. Code § 2010)

I. Debarment, Suspension, and Other Responsibility Matters

- i. The AAA certifies to the best of its knowledge and belief, that it and its subcontractors:
 1. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.
 2. Have not, within a three-year period preceding this MOU, 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.
 3. 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 (i)(2) of this certification.
 4. Have not, within a three-year period preceding this MOU, had one or more public transactions (federal, State, or local) terminated for cause or default.
- ii. The AAA shall report immediately to CDA in writing, any incidents of alleged fraud and/or abuse by either the AAA or subcontractors.
- iii. The AAA shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by CDA.
- iv. The AAA agrees to timely execute any and all amendments to this MOU and the Program Guide or other required documentation relating to the Subcontractor's debarment/suspension status.

J. AAA's Staff

- i. The AAA shall maintain adequate staff to meet the AAA's obligations under this MOU and the Program Guide.
- ii. This staff shall be available to the State for training and meetings which the State may find necessary from time to time.

10. PROGRAM GUIDE

- A. A Program Guide (or “Guide”) has been created and is intended for use by CDA and the AAAs as a reference tool for the provision of OCA and OAA programs. It is also intended to be used as a reference tool for monitoring and for internal and external audits.
- B. The Program Guide defines the responsibilities for providing OAA and OCA assistance and/or related support services to eligible older adults, adults with disabilities, family caregivers, and residents in long-term care facilities.
- C. The Program Guide shall be maintained, updated, and/or revised by CDA. Updates shall be made on an annual basis, at the beginning of each state fiscal year, or whenever there is an update to federal and/or state laws, regulations, policies, and/or directives that impact guidance provided within the Program Guide.
- D. The official copy of the Program Guide shall be kept and maintained on CDA’s webpage.

11. FISCAL PROVISIONS

- A. This MOU must be approved prior to release and disbursement of any program funding.
- B. Upon release of an original or revised budget display, a separate budget for all programs affected shall be submitted electronically to CDA’s Local Finance Bureau within 30 days of release.
- C. Budgets must be approved by CDA’s Local Finance Bureau prior to any disbursement of funding.
- D. CDA cannot disburse funds until the enactment of the Budget Act has occurred and/or CDA has received funding authority.
- E. Budget Displays reference terms specific to each program funding source, which shall be used to determine disbursement of funding.
- F. AAAs shall follow other fiscal provisions and terms as outlined in the program guide.

12. RESOLUTION OF LANGUAGE CONFLICTS

- A. If a dispute arises in connection with this MOU involving the interpretation, implementation, or conflicts with the laws, policies, and regulations, the AAA and CDA will meet to attempt to resolve the problem in a manner that is allowable under federal and state laws. Both parties will strive to ensure that the dispute will not result in a disruption of OAA or OCA services.
- B. The terms and conditions of federal awards and other requirements have the following order of precedence, if there is any conflict in what they require:
 - i. The Grant Terms and Conditions
 - ii. The Older Americans Act and other applicable federal statutes and their implementing regulations
 - iii. If applicable, the Older Californians Act and other California State codes and regulations
 - iv. This MOU and the Program Guide
 - v. Program Memos and other guidance issued by CDA
 - vi. Any other documents incorporated herein by reference including, if applicable, the federal HHS terms and conditions found in Part II of the HHS Grant Policy Statement. The HHS Grant Policy Statement is available under the HHS Policy Requirements Topic at <https://www.hhs.gov/grants/grants/grants-policies-regulations/index.html>

13. TERMINATION

A. Termination Without Cause

CDA may terminate performance of work under this MOU, in whole or in part, without cause upon ninety (90) days written notice if CDA determines that a termination is in the State's best interests. 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 MOU 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. Upon receipt of a Notice of Termination, the AAA shall submit to CDA a Transition Plan as specified in the Program Guide.

The Parties agree that for the terminated portion of the MOU, the remainder of the MOU 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 MOU. CDA may terminate the MOU upon thirty (30) days written notice to the AAA. 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 AAA shall submit to CDA a Transition Plan as specified in the Program Guide. The grounds for termination for cause shall include, but are not limited to, the following:

- i. In case of threat of life, health, or safety of the public, termination of the MOU shall be effective immediately.
- ii. A violation of the law or failure to make progress so as to endanger performance of this MOU.
- iii. Inadequate performance or failure to make progress so as to endanger performance of this MOU.
- iv. Failure to comply with reporting requirements.
- v. Evidence that the AAA is in an unsatisfactory financial condition as determined by an audit of the AAA or evidence of a financial condition that endangers performance of this MOU and/or the loss of other funding sources.
- vi. Delinquency in payment of taxes or payment of costs for performance of this MOU in the ordinary course of business.
- vii. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the AAA's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the AAA.
- viii. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the AAA's assets or income.
- ix. The commission of an act of bankruptcy.

- x. Finding of debarment or suspension.
- xi. The AAA's organizational structure has materially changed.
- xii. CDA determines that the AAA may be considered a "high risk" agency as described in 2 CFR 200.205 and 45 CFR 75.205. If such a determination is made, the AAA may be subject to special conditions or restrictions.

C. AAA's Obligation After Notice of Termination

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

The AAA shall:

- i. Stop work as specified in the Notice of Termination.
- ii. Place no further subcontracts for materials or services, except as necessary, to complete the continued portion of the MOU.
- iii. Terminate all subcontracts to the extent they relate to work terminated.
- iv. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, (the approval or ratification which will be final for purposes of this clause).

D. Effective Date

Termination of this MOU shall take effect immediately in the case of an emergency such as a 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 AAA, respectively. 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 AAA (applicable to non-Title III Programs)

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

F. In the Event of a Termination Notice

CDA will present written notice to the AAA 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.

14. Remedies

The AAA agrees that any remedy provided in this MOU 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 MOU by the AAA, whether such breach occurs before or after completion of the project.

15. Dissolution of Entity

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

16. AMENDMENTS

- A. No amendment or variation of the terms of this MOU shall be valid unless made in writing, signed, and approved by both parties. No oral understanding or agreement not incorporated in this MOU is binding on any of the parties.
- B. Any provision of this MOU or the Program Guide which conflicts with current or future applicable federal or state laws is hereby amended to conform to the provisions of those laws. Such amendment of this MOU and/or the Program Guide shall be effective on the effective date of the laws necessitating it and shall be binding on the parties even though such amendment may not have been reduced to writing and formally agreed upon and executed by the parties.

- C. Failure by the AAA to take necessary actions required by amendments to this MOU and/or the Program Guide shall constitute a material violation.
- D. The State reserves the right to revise, waive, or modify the MOU to reflect any restrictions, limitations, or conditions enacted by Congress or the Legislature or as directed by the Executive Branch of State government.