

## ARTICLE I. ASSURANCES SPECIFIC TO THIS AGREEMENT

### A. General Assurances

Contractor shall ensure that the following conditions are met:

1. Services are provided only to the defined Eligible Service Population.
2. If Contractor makes any award of funds to a public or private nonprofit agency, for the following purposes: (1) acquiring, altering, leasing, or renovating a facility, including a mobile facility, for use as a multipurpose senior center or (2) constructing a facility, including a mobile facility, for use as a multipurpose senior center, Contractor shall adhere to the program requirements and to 45 CFR 75.327(2), "Procurement Standards," procurement by contractors and subcontractors for nonprofit organizations, and 45 CFR 75.327 procurement for State and local governments, as applicable.
3. Contractor shall comply with the standards and guidelines for procurement of supplies, equipment, construction, and services as provided in 45 CFR 75.328.
4. Contractor assures that when an existing facility has been altered with funds made available by this Agreement and is used as a multipurpose senior center, the period of time in which such facility shall be used as a center is as follows:
  - a. Not less than three (3) years from the date the Agreement terminates where the amount of the Agreement, including the non-federal share, does not exceed \$30,000.
  - b. If the Agreement amount exceeds \$30,000, the fixed period of time shall be not less than three (3) years from the date of the Agreement plus one (1) year for each additional \$10,000, or part thereof, to a maximum of \$75,000.
  - c. For Agreement amounts which exceed \$75,000, the fixed period of time shall be no less than ten (10) years.
5. Any multipurpose senior center constructed with funds made available by this Agreement shall be used for that purpose for at least twenty (20) years after completion of that construction.
6. Any facility to be used as a senior center and acquired with funds made available by this Agreement shall be used for that purpose for at least ten (10) years from the date of acquisition.
7. Any agency awarded Title III funds for senior center acquisition or construction has a completed and notarized Notice of Assurances to the State of California of

- the Use of Property and the United States' Right of Recapture (CDA 214) recorded with the county recorder. Contractor shall periodically validate continuing use of such facility as a senior center during the recapture period.
8. Area 12 Agency on Aging (A12AA) funds will be made available only for the support of activities specified in an approved and current Area Plan and current Contractor budget and contract that is in compliance with State and Federal laws and regulations.
  9. An individual's receipt of services under the In-Home Supportive Services Program shall not be the sole cause for denial of any services provided by the A12AA or its contractors.
  10. Funds made available under this Agreement shall supplement, and not supplant, any federal, State or local funds expended by a State or unit of general purpose local government to provide Title III (excluding III E) and Title VII.
  11. The following closely related programs identified by CFDA number are to be considered as an "Other Cluster" for purposes of determining major programs or whether a program specific audit may be elected. Contractor shall identify the CFDA titles and numbers to the independent auditor conducting the organization's single audit along with each of its sub-recipients. The funding source (Federal Grantor) for the following programs is the U.S. Department of Health and Human Services, Administration for Community Living.

93.041	Special Programs for the Aging-Title VIIA, Chapter 3 Programs for Prevention of Elder Abuse, Neglect, and Exploitation (Title VIIA, Chapter 3)
93.042	Special Programs for the Aging-Title IIIB/VIIA, Chapter 2- Long Term Care Ombudsman Services for Older Individuals (Title IIIB/VIIA, Chapter 2)
93.043	Special Programs for the Aging-Title III, Part D -- Disease Prevention and Health Promotion Services (Title IIID)
93.044	Special Programs for the Aging-Title III, Part B -- Grants for Supportive Services and Senior Centers (Title IIIB)
93.045	Special Programs for the Aging-Title III, Part C -- Nutrition Services (Title IIIC)
93.052	National Family Caregiver Support-Title III, Part E
93.053	Nutrition Services Incentive Program (NSIP)

'Cluster of programs' means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development, student financial aid, and other clusters. "Other Clusters" are as defined by the consolidated CFR in the Compliance Supplement or as designated by a State for federal awards provided to its subcontractors that meet the definition of 'cluster of program'. When designating an "other cluster," a

- State shall identify the Federal awards included in the cluster and advise the subcontractors of compliance requirements applicable to the cluster. A 'cluster of programs' shall be considered as one program for determining major programs, as described in 45 CFR 75.525(a), whether a program-specific audit may be elected. [Federal Office of Management and Budget, [45 CFR 75 Requirements], Audits of States, Local Governments [45 CFR 75 Appendix V to part 75 F. 1], and Non-Profit Organizations [45 CFR 75 Appendix IV to part 75 C. 2.a].
12. Contractor assures that voluntary contributions shall be allowed and may be solicited in accordance with the following requirements [OAA§315(b)]:
    - a. Contractor for any Title III or Title VIIA services shall not use means tests.
    - b. Any Title III or Title VIIA client that does not contribute toward the cost of the services received shall not be denied services.
    - c. Methods used to solicit voluntary contributions for Title III and Title VIIA services shall be non-coercive. All voluntary contribution language must be approved by A12AA Executive Director before distributing to consumers.
    - d. Each Service Provider will:
      - (i) Provide each recipient with an opportunity to voluntarily contribute to the cost of the services.
      - (ii) Clearly inform each recipient there is no obligation to contribute and the contribution is purely voluntary.
      - (iii) Protect the privacy and confidentiality of each recipient with respect to the recipient's contribution or lack of contribution; and
      - (iv) Establish appropriate procedures to safeguard and account for all contributions.
      - (v) Use all collected contributions to expand the services for which the contributions were given and to supplement (not supplant) funds received under this Act. [OAA § 315(b)(4)(E)]
  13. Any Title III and Title VII service shall not implement a Cost Sharing program unless so notified by A12AA.
  14. Voluntary contribution letters may not resemble a bill or a statement [OAA § 315(b)].
  15. All voluntary contribution language must be submitted in writing and approved by the A12AA Executive Director before distribution to consumers.
  16. Individual client voluntary contributions shall not be tracked by accounts receivable. [OAA §315(b)(4)(C)].

17. Contractor shall comply with the OAA § 306(a)(17), which requires it to include in its Administration information, how it will coordinate activities and develop long-range emergency preparedness plans with local and state emergency response agencies, relief organizations, local and state governments, and any other institutions that have responsibility for disaster relief service delivery.
18. Contractor, at a minimum, shall identify and make contact with their local Office of Emergency Services (OES) to define their respective roles and responsibilities. This contact shall include a discussion of the type of clients served by Contractor and how OES will address their needs in the community.
19. Contractor shall furnish annually or whenever a change occurs, the name of its Disaster Coordinator to the A12AA Disaster Coordinator.
20. Contractor shall assure that its Information and Assistance staff have written procedures in place and are trained at least annually on how to handle emergencies. As specified in Title 22, Division 1.8, Chapter 4, Article 2, §7547, the training shall consist of:
  - a. Familiarity with telephone numbers of fire, police, and ambulance services for the geographic area served by the provider. These telephone numbers shall be posted near the telephone for easy access when an emergency arises.
  - b. Techniques to obtain vital information from older individuals and persons with disabilities who require emergency assistance.
  - c. Making written emergency procedure instructions available to all staff who have contact with older individuals or persons with disabilities.
21. Proof of age, citizenship or disability shall not be required as a condition of receiving services.

Materials published or transferred by Contractor and financed with funds under this Agreement shall: (a) state "the materials or product were a result of a project funded by a contract with the "Area 12 Agency on Aging"; (b) give the name of the entity, the address, and telephone number at which the supporting data is available; and (c) include a statement that "the conclusions and opinions expressed may not be those of the Area 12 Agency on Aging (A12AA) or the California Department of Aging (CDA) and that the publication may not be based upon or inclusive of all raw data."

B. Assurances Specific to the Ombudsman Program:

Contractor shall assure the following:

1. Long-Term Care Ombudsman Services in the Planning and Service Area will be carried out by the agency that has been designated by the State Ombudsman to provide those services. [OAA § 712(a)(5)(A); 45 CFR 1324.13(c)]
2. The Local Ombudsman Program, its governing board members, representatives of the Local Ombudsman Program, OSLTCO and members of their immediate families shall be free of actual and perceived conflicts of interest. [OAA § 712(f)(1)(B); 45 CFR 1324.21]
3. Representatives of the Local Ombudsman Program shall have unescorted, unhindered access to long-term care facilities and long term care facility residents between the hours of 7:00 a.m. and 10:00 p.m., seven days a week [OAA § 712(b)(1)(A); [45 CFR 1324.11(e)(2)(i)]; [W&I 9722(a)] [22 CCR 8020(a)]. Authorization by the State Ombudsman is required for entry outside of these hours. [W&I 9722(a)] [22 CCR 8020(b)].
4. Representatives of the Local Ombudsman Program shall have access to the medical and personal records of residents with appropriate documentation of consent; or when authorized by the State Ombudsman, in accordance with policies developed by the State Ombudsman. [OAA § 712(b)(1)(B)] [45 CFR 1324.11(e)(2)(iv)] [W&I Code §9724]
5. Representatives of the Local Ombudsman program, upon request to a long-term care facility staff, shall be provided with a roster, census, or other list of the names and room numbers or room location of all current residents. [W&I Code §9722(d)]
6. Representatives of the Local Ombudsman Program shall not carry out the responsibilities of the Program until the State Ombudsman accepts them for certification. [OAA § 712(h)(6)(B)] [45 CFR 1324.13(c)(3)] [W&I Code §9719(a)]
7. All records and files maintained by the Local Ombudsman Program relating to any complaint or investigation shall remain confidential unless disclosure is authorized by the resident, resident representative, State Ombudsman, or local Ombudsman Program Coordinator in compliance with OSLTCO policies and procedures. [OAA §§ 705(a)(6)(C), 712(d)(2)] [45 CFR 1324.11(e)(3); 1324.19(b)(6-9)] [Welf. & Inst. Code § 9725]
8. The Local Ombudsman Program shall enter into a Memorandum of Understanding (MOU) with the Legal Services Provider (LSP) which will address conflict of interest, provision of legal advice, procedures for referral, and other technical assistance. The LSP may assist the State in providing legal representation to the Program when an Ombudsman Representative has been subpoenaed or in a suit or other legal action threatened or brought against the performance of the official duties of the Ombudsman Representative. [OAA

§712(h)(8)] [45 CFR 1324.13(h)(10)] [W&I 9717(c)] [Statewide Standards for Legal Assistance in California]

9. Each Local Ombudsman Program shall maintain a separate budget. The Local Ombudsman Program Coordinator shall be responsible for managing the day-to-day operation of the Program, including managing all paid staff and volunteers in the program. The Local Ombudsman Coordinator shall determine budget priorities, develop or participate in budget preparation, and be informed of budget allocations by the Contractor specific to the Ombudsman Program. [45 CFR 1324.13(f)]
10. The Local Ombudsman Program Coordinator shall provide CDA with an organizational chart that includes:
  - a. All local staff that are wholly or partly funded by Ombudsman Program resources.
  - b. Their titles or roles within the Program.
  - c. The number of hours per week charged to the Local Ombudsman Program for each position. [45 CFR 1324.13(b),(c)]
11. The Local Ombudsman Program Coordinator shall attend OSLTCO New Coordinator Training when initially designated as coordinator and OSLTCO biannual training conferences. Coordinator shall inform CDA of any staffing changes. [45 CFR 1324.13(c)(2); Welf. & Inst. Code § 9719(a)(1)]
12. The Local Ombudsman Program Coordinator shall inform CDA/OSLTCO and A12AA of issues with local Ombudsman Representatives, complex cases, situations with potential legal implications, changes in staffing, emerging regional issues with statewide impact, breaches of confidentiality, and conflict of interest issues. [45 CFR 1324.13(b)(c)]
13. Representatives of the Local Ombudsman Program shall conduct interviews/investigations in a confidential manner and the Program shall have office space and telecommunications that protect the confidentiality of all complaint-related communications and records. [OAA §712(a)(3)(D)] [45 CFR 1324.19(b)(2)(i)], [W&I §§9725, W&I 15633(c)].
14. Each Local Ombudsman Program shall have information systems sufficient to run State-approved database systems and to receive and send confidential e-mail messages to and from the CDA. [OAA §712(c); W&I §9716(a)] [45 CFR 1324.13(d)]

15. The entity providing Ombudsman services must be insured or self-insured for professional liability covering all Ombudsman activities including, but not limited to, investigation of resident complaints.

C. Assurances Specific to Legal Services Providers (LSPs)

In accordance with OAA §731, Contractor shall assure that the following conditions are met:

1. LSPs will coordinate with State-designated providers of Long-Term Care Ombudsman services by developing and executing a memorandum of understanding which will address conflict of interest, provision of legal advice, procedures for referral and other technical assistance.
2. LSPs may provide direct legal assistance to residents of the long-term care facilities where the clients are otherwise eligible and services are appropriate.
3. Where both legal and Ombudsman services are provided by the same agency, providers must develop and follow policies and procedures to protect the integrity, resources, and confidentiality of both programs.
4. LSPs may assist the State in providing legal representation to the Ombudsman Program when an Ombudsman or the program is named as a party or witness, in a subpoena, civil suit or other legal action challenging the performance of the official duties of the Ombudsman.
5. LSPs are to coordinate with the local Legal Services Corporation (LSC) program, if the provider is not an LSC-funded program.
6. LSPs are to coordinate with the network of other service providers, including but not limited to, other LSPs, LTC Ombudsman, HICAP, senior information and assistance, Adult Protective Services, law enforcement, case management services and focal points.
7. LSPs are to coordinate legal assistance activities with the statewide Hotline and private Bar, including groups within the private Bar furnishing services to older individuals on a pro bono or reduced fee basis.
8. LSPs are to use the CDA 1022 form developed by CDA in July 2018 to collect data on legal services provided.
9. Waiver of this section of this Agreement may be obtained from the Department pursuant to Exhibit D, Article XV., of this Agreement entitled, "Revisions, Waivers, or Modifications."

## ARTICLE II. REPORTING PROVISIONS

- A. Contractor shall submit program performance reports for Title III B, Title III C-1, Title III C-2, and Title VIIA in accordance with Area 12 Agency on Aging (A12AA) and California Department Of Aging (CDA) requirements [W&I Code 9102 (a)(5)], to the A12AA Data Team.
- B. Contractor shall assure that all subcontractors submit complete and accurate data.
- C. Contractor shall have written procedures to assure that all performance data submitted is timely, complete, accurate and verifiable using the A12AA approved reporting procedures.
  - 1. Details regarding the collection and reporting of program data.
  - 2. Details regarding ensuring accuracy of data from intake/assessment process through reporting to A12AA,
  - 3. Details regarding verification of data prior to submission to A12AA, and
  - 4. Details for correction procedures.
- D. Reporting Requirements specific to Title III B, Title III C-1, Title III C-2, and Title VIIA services.
  - 1. Contractor shall submit program data electronically only for those A12AA funded programs using the data collection software WellSky (SAMS).
  - 2. Monthly service unit data reports will be completed and verified for accuracy no later than the fifth working day of the month following the month being reported.
  - 3. Contractor shall provide all missing information, corrections for errors and verification of accuracy for all monthly and annual data in accordance with CDA requirements per A12AA Data Team as requested by A12AA.
- E. Reporting Provisions Specific to the Ombudsman Program:
  - 1. Contractor (Local Ombudsman Program) shall take the following actions, and shall enter data into the Internet-based National Ombudsman Reporting System (NORS) utilizing software provided by CDA as required. NORS data entry must be timely, complete, accurate, and verifiable.
    - a. Data entry for quarterly NORS reports must be completed no later than one month following the end of the reporting quarter (i.e., October 31, January 31, April 30, and July 31). Upon request, aggregate data may be sent to the corresponding A12AA.



- b. On or before the reporting dates, the Local Ombudsman Program must submit the Quarterly Ombudsman Data Reporting Form (OSLTCO S301), indicating that data for the quarter has been completed or the reason for any delay, to the OSLTCO mailbox ([stateomb@aging.ca.gov](mailto:stateomb@aging.ca.gov)) with a copy to the A12AA.
- F. Contractor shall have written reporting procedures specific to each program which include:
  - 1. Collection and reporting of program data for Contractor and subcontractor;
  - 2. Ensuring accuracy of all data from Contractor and subcontractor;
  - 3. Verification of Contractor data prior to submission to A12AA Data Team;
  - 4. Correction procedures for Contractor and subcontractor.
- G. Contractor shall orient and train 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.
- H. Reporting Provisions Specific to Title VIIb: Elder Abuse Prevention

Contractor shall complete and submit the Elder Abuse Prevention Quarterly Activity Report, as specified on the form CDA 1037, to A12AA and OSLTCO mailbox ([stateomb@aging.ca.gov](mailto:stateomb@aging.ca.gov)) on the following due dates: October 31, January 31, April 30, and July 31.

### **ARTICLE III. APPEAL PROCESS**

- A. Contractor may appeal an adverse determination as defined in Title 22 CCR, §7702 using the appeal process established by the CDA in Title 22 CCR, §§7700 through 7710. Such appeal shall be filed within thirty (30) days of the A12AA's notice of adverse determination.
- B. Subcontractors of Contractor may appeal Contractor's final adverse determination relating to Title III and VII programs using the appeal process established in Title 22 CCR, §§7700 through 7710.
- C. Any dispute regarding an existing direct service contract or the procurement of the direct service contract shall be resolved locally, consistent with W & I Code Section 9535(k), and as specified in the procurement documents and contracts of Contractor.
- D. Appeal costs or costs associated with any court review are not reimbursable.

#### **ARTICLE IV. TRANSITION PLAN**

- A. Contractor shall submit a transition plan to A12AA for submission to the CDA within 15 days of delivery of a written Notice of Termination (Pursuant to Article XII, Exhibit D of this Agreement) of a program funded either by Title III and Title VII. The transition plan must be approved by the State and shall at a minimum include the following:
1. Description of how clients will be notified about the change in their service provider.
  2. A plan to communicate with other organizations that can assist in locating alternative services.
  3. A plan to inform community referral sources of the pending termination of the service and what alternatives, if any, exist for future referrals.
  4. A plan to evaluate clients in order to assure appropriate placement.
  5. A plan to transfer any confidential medical and client records to a new contractor.
  6. A plan to dispose of confidential records in accordance with applicable laws and regulations.
  7. A plan for adequate staff to provide continued care through the term of the contract. [22 CCR 7206(e)(4)]
  8. A full inventory and plan to dispose or, transfer, or return to the A12AA all equipment purchased during the entire operation of the contract.
  9. Additional information as necessary to effect a safe transition of clients to other community service providers.
- B. Contractor shall implement the transition plan as approved by the State. A12AA and the CDA will monitor Contractor's progress in carrying out all elements of the transition plan.
- C. If Contractor fails to provide and implement a transition plan as required by Article XII of Exhibit D of this Agreement, Contractor will implement a transition plan submitted by CDA to A12AA following the Notice of Termination.

#### **ARTICLE V. OBLIGATIONS UPON TERMINATION SPECIFIC TO THE OMBUDSMAN PROGRAM**

- A. Transition of Local Ombudsman Services

1. Contractor shall notify A12AA, within one (1) working day the intent to terminate Ombudsman services. A12AA shall, upon receipt of notice of intent to terminate Ombudsman services by the contractor, notify A12AA and the State Ombudsman in writing, within one (1) working day of the receipt of the notice.
2. Contractor shall upon notice of termination, implement one of the following options to ensure continuity of Ombudsman services in accordance with federal and State mandates:
  - a. Continue the provision of mandated Ombudsman services as a subcontract with a provider selected in response to a Request for Proposal (RFP). CDA shall allow Contractor up to one hundred eighty (180) days to transition services to a new subcontractor.
  - b. Continue the provision of mandated Ombudsman services as a direct service of the A12AA. CDA shall allow the A12AA up to one hundred eighty (180) days to transition services from Contractor.

B. Transition Plan

1. Contractor shall submit a Transition Plan to State Ombudsman and A12AA within fifteen (15) days from the occurrence of the any of the following:
  - a. Contractor's receipt of written notice of the Subcontractor's intent to terminate Ombudsman services.
  - b. Contractor's written notice to the Subcontractor of its intent to terminate the contract for Ombudsman services.
  - c. Contractor's receipt of written notice of CDA's intent to terminate the Contract for Ombudsman services.
  - d. The Transition Plan shall be submitted to: A12AA, 19074 Standard Rd., Ste. A, Sonora, CA 95370 and CDA OSLTCO, 1300 National Drive, Suite 200, Sacramento, CA 95834, Attn: State Ombudsman.
2. The Transition Plan shall, at a minimum, include the following:
  - a. Details of how an adequate level of State Certified Ombudsman Representatives will be maintained to ensure continuity of services during the transition to a subsequent Local Ombudsman Program.
  - b. Details of how Contractor shall notify all the impacted facilities and community referral sources of the change in the parties providing Local Ombudsman Program services.

- c. Details of how Contractor shall deliver to the subsequent Local Ombudsman Program of a full inventory of updated confidential client records, public facility records, and records documenting Ombudsman certification and training.
  - d. Details of how Contractor shall destroy confidential Local Ombudsman Program records that will not be transferred to the subsequent Local Ombudsman Program.
  - e. A description of how the subsequent Local Ombudsman Program will be assisted in assessing the status of all active clients records at the point of transfer to ensure timely continuation of Ombudsman services.
  - f. The Transition Plan shall be submitted to: A12AA, 19074 Standard Rd., Ste. A, Sonoma, CA 95370 and CDA OSLTCO, 1300 National Drive, Suite 200, Sacramento, CA 95834, Attn: State Ombudsman.
3. A12AA shall identify in the Transition Plan which option it has chosen to ensure there will be no break in continued services, based on the following:
- a. Continue the mandated Ombudsman provisions as a direct service of the Contractor, utilizing experienced State Certified Ombudsman Representatives and a local Program Coordinator selected by Contractor and designated by the State Ombudsman to represent the Local Ombudsman Program.
  - b. Continue the mandated Ombudsman provisions as a subcontracted service with a subsequent provider selected in response to an RFP and designated by the State Ombudsman to carry out Ombudsman duties with respect to the PSA.
- C. Contractor and A12AA shall implement the Transition Plan as approved by the State Ombudsman. The State Ombudsman will monitor the Contractor's progress in carrying out all elements of the Transition Plan.
- D. If Contractor fails to provide and implement the Transition Plan as required above, Contractor agrees to implement a Transition Plan submitted by the State Ombudsman to Contractor. This Transition Plan may utilize State Certified Ombudsman Representatives from either the terminating subcontractor or from a neighboring Local Ombudsman Program.