

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: February 5, 2008

☒ (X) Consent

☐ () Regular

☐ () Ordinance

☐ () Public Hearing

Department

Submitted By: Community Services

Submitted For: Division of Senior Services

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Standard Agreement No. IU008-1 with the Area Agency on Aging of Palm Beach/Treasure Coast, Inc. (AAA) for the period of October 1, 2007, through September 30, 2008, for a total not-to-exceed \$273,612 for the Nutrition Services Incentive Program (NSIP).

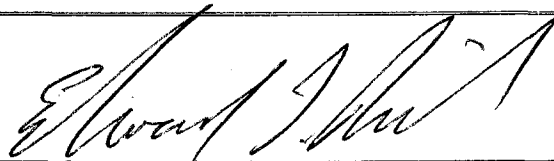
Summary: NSIP funds are available to supplement the cost of meals in the Division of Senior Services (DOSS) Congregate and Home Meals Programs. NSIP provides reimbursement for the purchase of United States produced agricultural and other food commodities for use in nutrition projects operating under the approved Older Americans Act (OAA) Title III agreement. The maximum number of meals to be reimbursed is 445,838 at the rate of \$.6137002 per meal for a total of \$273,612. In the area south of Hypoluxo Road, Mae Volen Senior Center Inc. currently provide OAA services under a similar grant from the AAA. (DOSS) Countywide except for portions of Districts 3, 4, 5, and 7 south of Hypoluxo Road (TKF)

Background and Justification: The AAA has negotiated an entitlement program with NSIP through the Department of Elder Affairs (DoEA). In this program providers may receive cash or commodities to supplement the cost of providing meals. DOSS has elected to receive cash to supplement the cost of the meals. DOSS provides meals to eligible seniors through the Congregate and Home Delivered Meals program under the OAA Title III Agreement.

Attachments:

Standard Agreement No. IU008-1

Recommended by:

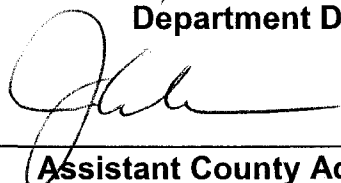


Department Director

Date

1-16-2008

Approved By:



Assistant County Administrator

Date

1-29-08

II. FISCAL ANALYSIS IMPACT

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Capital Expenditures					
Operating Costs	<u>273,612</u>				
External Revenue	<u>(273,612)</u>				
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	<u>-0-</u>				
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget: Yes X No
Budget Account No.: Fund 1007 Dept 144 Unit 1458/1459 Obj. Var.
Program Code Var.

B. Recommended Sources of Funds/Summary of Fiscal Impact:

Federal funds through the Department of Elder Affairs.

Departmental Fiscal Review: few?

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Administration Comments:

Jim D. 1-25-08
OFMB
1/25/08 1/25/08

John F. Fredrick 1/25/08
Contract Administration
1/25/08

This Contract complies with our
contract review requirements.

B. Legal Sufficiency:

John F. Fredrick 1/29/08
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

**STANDARD AGREEMENT
AREA AGENCY ON AGING**

CONTRACT PROVISIONS

THIS Agreement is entered into between the Area Agency on Aging/Palm Beach Treasure Coast Inc., hereinafter referred to as the "Agency", and **Palm Beach County Board of County Commissioners**, hereinafter referred to as the "Provider".

I. Provider Agrees:**A. Final Request for Adjustments and Payment:**

1. The final request for payment invoice must be submitted by November 30, 2008.

II. Agency Agrees:**A. Agreement Amount:**

To pay for services in accordance with the PROGRAM PROVISIONS of this agreement in an amount not to exceed **\$273,612.00**, subject to the availability of funds.

B. Obligation to Pay:

The Agency's and State of Florida's performance and obligation to pay under this agreement is contingent upon an annual appropriation by the Legislature.

C. Source of Funds:

The costs of services paid under any other agreement or from any other source are not eligible for reimbursement under this agreement.

The funds awarded to the provider pursuant to this agreement are in the state grants and aids appropriations and consist of the following projected quarterly allocations:

Program Title	Funding Source	CFDA/ CSFA	Fund Amount
Nutrition Services Incentive Program 2007-2008	Older Americans Act	93.053	\$273,612.00
TOTAL FUNDS CONTAINED IN THIS AGREEMENT:			\$273,612.00

III. Provider and Agency Mutually Agree:**A. Effective Date:**

1. This agreement shall begin on October 1, 2007 or on the date the agreement has been signed by both parties, whichever is later.
2. This agreement shall end on January 31, 2009.
2. In the event that a subsequent agreement may not be executed prior to the October 1st start date, the Agency may, at its discretion, extend this agreement upon written notice for up to 90 days to ensure continuity of service. Services provided under this extension will be paid for out of the succeeding contract amount.

B. Provider Responsibility:

Notwithstanding the pass-through language contained in the Assignments and Subcontracts clause of the STANDARD PROVISIONS of this agreement, the provider maintains responsibility for the performance of all subcontractors and vendors in accordance with all applicable federal and state laws.

C. Notice, Contact, and Payee Information:

1. The name, address, and telephone number of the program manager for the Agency for this agreement is:

Michelle Bissett
Area Agency on Aging
Palm Beach/Treasure Coast, Inc.
1764 N. Congress Avenue, Suite 201
(561) 684-5885

2. The name, address, and telephone number of the representative of the provider responsible for administration of the program under this agreement is:

Faith Martin, Director
Division of Senior Services
810 Datura Street, Suite 300
West Palm Beach, FL 33401
(561) 355-4746

3. In the event either party designates different representatives after execution of this agreement, notice of the name and address of the new representative will be rendered in writing to the other party and said notification attached to originals of this agreement.
4. The name (provider name as shown on page 1 of this agreement) and mailing address of the official payee to whom the payment shall be made:

Palm Beach County Board of County Commissioners
Division of Senior Services
810 Datura Street, Suite 300
West Palm Beach, FL 33401

D. Renegotiation or Modification:

Upon receipt of a Notice of Award Increase/Decrease, the provider shall update affected information in budget summaries, deliverable schedules, unit rate information or any other applicable financial information contained in the provider's service provider application or required in this agreement. This shall be submitted to the Agency within ten days of receipt of such notice.

PROGRAM PROVISIONS: NUTRITION SERVICES INCENTIVE PROGRAM**I. STATEMENT OF PURPOSE**

The Nutrition Services Incentive Program (NSIP) is authorized by Section 311 of the Older Americans Act of 2000, as amended. The NSIP is the new name for the former United States Department of Agriculture (USDA) cash or commodity program known as the Nutrition Program for the Elderly. NSIP cash reimbursements must be used to purchase United States (U.S.) agricultural commodities or other foods of U.S. origin for nutrition projects operating under approved OAA, Title III agreements.

II. SERVICES TO BE PROVIDED

A. Services:

Authorized OAA nutrition providers will deliver nutritious meals to older adults participating in approved nutrition projects. All nutrition project meals must be prepared with the U.S. agricultural commodities for other foods of U.S. origin.

B. Manner of Service Provision:

The services will be provided in a manner consistent with and described in the provider’s Service Provider Application update for state fiscal year 2006 and the Department of Elder Affairs Home and Community-Based Services Handbook. In the event the Handbook is revised, such revision will automatically be incorporated into the agreement and the provider will be given a copy of the revisions.

III. METHOD OF PAYMENT

- A. This is a fixed rate agreement. The Area Agency shall make payment to the provider for provision of services up to a maximum number of units of service and at the prospective rate stated below:

<u>Service to be Provided</u>	<u>Units of Services</u>	<u>Unit Rate</u>	<u>Maximum Units</u>
Eligible Congregate and Home Delivered Meals	1 unit = 1 meal	<u>0.6137002</u>	445,838

The prospective rate is based on the estimated OAA grant award.

- B. All requests for reimbursement shall be in accordance with policy regarding reimbursable meals and Client Information Registration and Tracking System (CIRTS) policy regarding data entry for reimbursable meals. All requests for reimbursement shall include:
1. The request for reimbursement shall be submitted on DOEA Form 117, Request for Reimbursement, USDA Cash-In-Lieu of Commodities.
 2. DOEA Form 118, PSA/Recipient Monthly Meals Report must be submitted with the request for reimbursement.
 3. A CIRTS report must be submitted with DOEA Forms 117 and 118 as supporting documentation for the total number of meals reported. The CIRTS report must match the number of meals reported on DOEA Form 118.
 4. Duplication or replication of the DOEA forms 117 and 118 via data processing equipment is permissible but replication must include all data elements in the same format as included on the departmental forms.
 5. The due date for the request for reimbursement and report(s) shall be no later than the 10th day of the month following the month being reported.
- C. Invoices will be in sufficient detail for a proper pre-audit and post-audit thereof. The provider shall maintain documentation to support payment requests that shall be available to DOEA or the Agency upon request.
- D. Additional Reporting Conditions:

1. This agreement is for services provided during the 2007 Federal Fiscal Year beginning October 1, 2007 through September 30, 2008, however, the agreement is in effect through January 31, 2009. The additional four months (October 1, 2008 through January 31, 2009) are to allow rates to be adjusted for the twelve month service period. Retroactive rates will be based on the final OAA grant award divided by the total eligible meals reported in Florida. This agreement shall automatically terminate after the final rate for the federal fiscal year has been established and the release of final payments are authorized by the Area Agency.
 2. In the event that the final reimbursement rate is greater or less than the rate in Section II.C., then this agreement shall be appropriately adjusted and the final rate shall be effective for the entire agreement period upon notice from the Area Agency's program manager.
- E. Any payment due by the Area Agency under the terms of this agreement may be withheld pending the receipt and approval by the Area Agency of complete and accurate financial and programmatic reports due from the provider and any adjustments thereto, including any disallowance not resolved as outlined in Section I.P. of the Master Agreement.

IV. SPECIAL PROVISIONS

A. State Laws and Regulation:

1. The provider agrees to comply with applicable parts of Florida Statutes, Rule 58A-1, Florida administrative code and the DOEA Community-Based Services Handbook.
2. The Area Agency and provider agree to provide services and implement the provisions of this agreement in accordance with Federal, State, and Local laws, rules, regulations, and policies that pertain to the Nutrition Services Incentive Program cash payments and Older Americans Act.

STANDARD PROVISIONS

These provisions, incorporated herein, are the successor to Master Agreement Number M004-1, entitled Area Agency on Aging, Master Agreement.

I. Scope of Services:

The provider agrees to provide the services specified in the PROGRAM PROVISIONS of this agreement.

II. Independent Provider:

The provider will be acting in its independent capacity and not as an employee, agent or representative of the Agency. The provider shall not be deemed or construed to be an employee, agent or representative of the Agency for any purpose whatsoever. Nothing contained in this agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties.

Under this agreement, the provider shall be responsible for its work and shall be accountable to the Agency for work performed by subcontractors.

III. Payment Requirements:

The provider agrees to submit bills for fees or other compensation for services or expenses in sufficient detail for a proper pre audit and post audit thereof. The provider shall comply with the particular requirements under the following laws and guidelines that are applicable to this agreement: (a) paragraph (16) (b) of section 216.181, F.S., regarding advances; (b) paragraph 69I-40.103 F.A.C. pertaining to Restriction of Expenditures from state funds; and, (c) the Contract Payment Requirements sub-section of section C of the Reference Guide for State Expenditures from the Department of Financial Services (<http://www.fldfs.com/aadir/reference%5Fguide/>). The provider certifies that detailed documentation is

available to support each item on the itemized invoice or payment request for cost reimbursed expenses, fixed rate or deliverables agreements, including paid subcontractor invoices, and will be produced upon request by the Agency. The provider further certifies that reimbursement requested is only for allowable expenses as defined in the laws and guiding circulars cited in Section IV. (State and Federal Laws and Regulations) of these provisions, in the Reference Guide for State Expenditures, and any other laws or regulations, as applicable, and that administrative expenses do not exceed amounts budgeted in the provider's supporting budget schedule as developed in accordance with and pursuant to section 306(a) of the Older Americans Act of 1965, as amended.

Provider and subcontractor shall provide units of deliverables, including reports, findings, and drafts as specified in this agreement and the service provider application developed by the provider.

IV. State and Federal Laws and Regulations:

The provider shall:

Comply with the cost principles, administrative requirements, and other provisions of all applicable state and federal laws and regulations including, but not limited to: the Older Americans Act of 1965, as amended, sections 215.97 and 216.348, F.S., Title 45, Code of Federal Regulations (CFR), Part 74, and/or 45 CFR, Part 92 and Part 1321, and/or 48 CFR Part 31, and Office of Management and Budget (OMB) Cost Principles 225 (A-87) and 230 (A-122), Federal Acquisition Regulation 31.2, Circulars A-133 and A-102 and 2 CFR Part 215 and Part 215 (formerly OMB Circular A-110), whichever is applicable to the provider's organization.

Comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act [42 United States Code (U.S.C.) 7401 et seq.], the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) code, Title 29 CFR, Part 1910.1030, and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). The provider shall report any violations of the above to the Agency.

Provider will annually complete a Certification Regarding Lobbying form and a Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Agreements/Subagreements form. If a Disclosure of Lobbying Activities form, Standard Form LLL, is required, it, as well as the abovementioned Certification forms, may be obtained from the Agency's program manager. All disclosure forms as required by a Certification Regarding Lobbying form must be completed and returned to the Agency with the signed agreement.

Comply with section 112.061, F. S., and any policies of the Agency regarding any and all business travel pursuant to agreements covered by this agreement (including use of the State approved Reimbursement of Travel Expenses form, or an equivalent form developed by the provider), and comply with the provisions of Chapter 119, F.S., allowing public access to all public records made or received by the provider in conjunction with this agreement. In addition, section 20.41(9), F.S., requires that all providers of the Agency are subject to Chapter 119, F.S., relating to public records, and, when considering any agreements requiring the expenditure of funds, are subject to section 286.011-286.012, F.S., relating to public meetings.

Abuse Neglect and Exploitation Reporting: In compliance with Chapter 415, F.S., an employee of the provider or subcontractors who knows, or has reasonable cause to suspect, that a child, aged person or disabled adult is or has been abused, neglected, or exploited, shall immediately report such knowledge or suspicion to the State of Florida's central abuse registry and tracking system on the statewide toll-free telephone number (1-800-96ABUSE).

Transportation Disadvantaged: If clients are to be transported under this agreement, comply with the provisions of Chapter 427, F.S., and Chapter 41-2, F. A. C.

Use of Funds For Lobbying Prohibited: Comply with the provisions of section 216.347, F.S., Title 48 CFR, Part 31.205, or Title 45 CFR, Part 93, whichever is applicable, that prohibit the expenditures of funds for the purpose of lobbying the Legislature, a judicial branch or a state agency.

Safeguarding Information: Except as provided for Agency auditing and monitoring purposes, not to use or disclose any information concerning a client who receives services under this agreement for any purpose not in conformity with state and federal regulations, except upon written consent of the client, or the client's authorized representative.

HIPAA Compliance: If the provider will receive client's protected health information as a result of this agreement, then the Agency recognizes that Agency and the provider are "Business Associates" of each other under the terms of the Health Insurance Portability Act (HIPAA) of 1996.

Grievance and Appeal Procedures: Ensure through agreement provisions that subcontracts and vendors follow the Minimum Guidelines for Provider Grievance Procedures, **ATTACHMENT II**, for handling complaints from clients who complain service has been suspended, terminated or reduced. Providers and subcontractors will also establish their own complaint procedures for clients who are dissatisfied with or denied services that include, at minimum, notice of the right to complain and to have their complaint reviewed.

It is expressly understood that a finding that the provider materially and substantially has not complied with any of the provisions of this section shall constitute a breach of this agreement.

V. Civil Rights Certification:

1. The provider gives this assurance in consideration of and for the purpose of obtaining federal grants, loans, awards, agreements (except agreements of insurance or guaranty), property, discounts, or other federal financial assistance and also assures compliance with all federal, state and local regulations, statutes and ordinances relating to nondiscrimination in programs or activities receiving or benefiting from state, federal, or local financial assistance, whichever apply. These include, but are not limited to: (a) Executive Order 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at Title 41 CFR Part 60; (b) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., which prohibits discrimination on the basis of race, color, or national origin; (c) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681-1683, and 1685-1686 et seq., which prohibits discrimination on the basis of sex in education programs; (d) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicaps; (e) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq., which prohibits discrimination on the basis of age; and with any and all other applicable regulations, guidelines, and standards as are now or may be lawfully adopted pursuant to the above statutes.
2. The provider agrees to complete the Civil Rights Compliance Questionnaire (DOEA forms 101 A and B), if services are provided to consumers and if fifteen (15) or more persons are employed. For providers employing less than 15 persons, the Agency requests completion of the Civil Rights Compliance Questionnaire.
3. The provider agrees to establish procedures pursuant to federal law to handle complaints of discrimination involving services or benefits through this agreement. These procedures shall include providing clients, employees, and participants of the right to file a complaint with the appropriate federal or state entity.

These assurances are a condition of continued receipt of or benefit from federal financial assistance, and are binding upon the provider, its successors, transferees, and assignees for the period during which such assistance is provided. The provider further assures that all subcontractors, vendors, or

others with whom it arranges to provide services or benefits to participants or employees in connection with any of its programs or activities have represented to the provider that they are not discriminating against those participants or employees in violation of the above statutes, regulations, guidelines, and standards.

In the event of failure to comply, the provider understands that the Agency may, at its discretion, seek a court order requiring compliance with the terms of this assurance or seek other appropriate judicial or administrative relief, including but not limited to, termination of and denial of further assistance.

VI. Withholdings and Other Benefits:

The provider is responsible for its employees Social Security and Income Tax withholdings.

VII. Indemnification:

If the provider is a state or local governmental entity, pursuant to section 768.28(18), F.S., the provisions of this section do not apply.

1. Provider agrees to indemnify, defend, and hold harmless the Agency and all of the Agency's officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any acts, actions, neglect or omission, action in bad faith, or violation of federal or state law by the provider, its agents, employees, or subcontractors in connection with the performance of this agreement, whether direct or indirect, and whether to any person or property to which the Agency or said parties may be subject, except that the provider will not indemnify the Agency or its officers, agents or employees for that portion of any loss or damages proximately caused by the negligent or intentional act or omission of the Agency or any of its officers, agents, or employees.
2. Provider's obligation to indemnify and defend shall be triggered on the seventh (7th) day following the Agency's notice of claim for indemnification to provider. Provider's inability to evaluate liability or its evaluation of liability shall not excuse provider's duty to defend and indemnify the Agency, within seven (7) calendar days following notice by the Agency. Notice shall be given by registered or certified mail, return receipt requested. Only an adjudication or judgment after the highest appeal is exhausted specifically finding the provider not liable shall excuse performance of this provision by provider. The provider's obligations under this paragraph are contingent upon the Agency giving the provider: (1) prompt written notice of any action or threatened action for which the Agency is seeking indemnification; (2) the opportunity to take over and settle or defend any such action at the provider's sole expense, and (3) assistance in defending the action at the provider's sole expense. The provider shall not be liable for any cost, expense or compromise incurred or made by the Agency in any legal action without the provider's prior written consent, which shall not be unreasonably withheld.
3. It is the intent and understanding of the parties that the provider, or any of its subcontractors, are not employees of the Agency and shall not hold themselves out as employees or agents of the Agency without specific authorization from the Agency. It is the further intent and understanding of the parties that the Agency does not control the employment practices of the provider and shall not be liable for any wage and hour, employment discrimination, or other labor and employment claims against the provider or its subcontractors.

VIII. Insurance and Bonding:

1. The provider agrees to provide adequate liability insurance coverage on a comprehensive basis and to hold such liability insurance at all times during the effective period of this agreement. The provider accepts full responsibility for identifying and determining the type(s) and extent of liability insurance necessary to provide reasonable financial protections for the provider and the clients to be served under this agreement. Upon execution of this agreement, the provider shall furnish the Agency written verification supporting both the determination and existence of such insurance coverage. A self-

insurance program established and operating under the laws of the state of Florida may provide such coverage. The Agency reserves the right to require additional insurance where appropriate.

2. The provider agrees to furnish an insurance bond from a responsible commercial insurance company covering all officers, directors, employees and agents of the provider authorized to handle funds received or disbursed under this agreement in an amount commensurate with the funds handled, the degree of risk as determined by the insurance company and consistent with good business practices.

IX. Purchasing:

The provider agrees to develop procurement procedures which are in accord with applicable state and/or federal requirements, which encourage fair and open competition and which promote a diversity of providers and subcontractors for all services purchased pursuant to this agreement.

1. **PRIDE**

Any service or item manufactured, processed, grown, or produced by Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) in a correctional work program may be furnished or sold to the provider and to any subcontractor, or to any person, firm, or business entity if not prohibited by federal law.

2. **Procurement of Products or Materials with Recycled Content**

Reusable materials and products shall be used where economically and technically feasible.

3. **Equity in Contracting**

The Agency is committed to embracing diversity in the provision of services to Florida's elders and in providing fair and equal opportunities for all qualified minority businesses in Florida. The provider shall report information to the Agency on utilization of certified minority and non-certified minority subcontractors and/or vendors receiving funds pursuant to this agreement. This report shall be submitted to the Agency by the 25th of the month following the end of each quarter.

The provider is encouraged to identify in the service provider application any geographic location(s) that has been designated as a Front Porch Community by the Governor and to direct services to that Front Porch Community as appropriate.

X. Sponsorship:

1. If the provider sponsors a program financed partially by state funds or funds obtained from any agreement with the Agency, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by Palm Beach County Board of County Commissioners, Area Agency on Aging of Palm Beach/Treasure Coast, Inc. and the State of Florida, Department of Elder Affairs." If the sponsorship reference is in written material, the words "Area Agency on Aging of Palm Beach/Treasure Coast, Inc. and the State of Florida, Department of Elder Affairs" shall appear in the same size letters or type as the name of the organization in accordance with section 286.25, F.S., and if the DOEA's or Agency's logo is incorporated, shall ensure that the current logo is used. This shall include, but is not limited to, any correspondence or other writing, publication or broadcast that refers to such program.
2. The provider shall not use the words "The State of Florida, Department of Elder Affairs and/or the Area Agency on Aging" to indicate sponsorship of a program otherwise financed unless the provider prior to use has obtained specific authorization from the Agency.

XI. Public Entity Crime:

Denial or revocation of the right to transact business with public entities:

In compliance with the legislature's intent to restrict the ability of persons convicted of public entity crimes to transact business with the Agency, the provider agrees that compliance with sections 287.017 and 287.133, F.S., is a condition of receipt or benefit from state or federal funds and it is binding upon the provider, its successors and transferees during the period of this agreement. The provider further assures that the provider, its officers, directors, senior management, partners, employees or agents have not been convicted of any public entity crimes within the last 36 months. If the provider or any of its officers or directors is convicted of a public entity crime during the period of this agreement, the provider shall notify the Agency immediately. Non-compliance with this statute shall constitute a breach of this agreement.

XII. Employment:

If the provider is a non-governmental organization, it is expressly understood and agreed the provider will not knowingly employ unauthorized alien workers. Such employment constitutes a violation of the employment provisions as determined pursuant to the Immigration Nationality Act (INA), Sec. 274A [8 U.S.C. s.1324a]. Violation of the employment provisions as determined pursuant to section 274A shall be grounds for unilateral cancellation of this agreement.

XIII. Audits and Records:

The provider agrees:

1. To maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices that sufficiently and properly reflect all revenues and expenditures of funds provided by the Agency under this agreement. The provider agrees to maintain records, including paid invoices, payroll registers, travel vouchers, copy logs, postage logs, time sheets, etc., as supporting documentation for service cost reports and for administrative expenses itemized for reimbursement. Original documentation will be made available upon request for monitoring and auditing purposes.
2. To assure these records shall be subject at all reasonable times to inspection, review, audit, or copy at the expense of the provider by state personnel and other personnel duly authorized by the Agency, as well as by federal personnel.
3. To maintain and file with the Agency such progress, fiscal and inventory and other reports as the Agency may require, pursuant to this agreement, within the period of this agreement. Such reporting requirements must be reasonable given the scope and purpose of the agreements.
4. To submit management, program, and client identifiable data, as specified by the Agency, pursuant to this agreement. To assure, through agreement provisions in subcontracts with subcontractors, program specific data is recorded and submitted in accordance with DOEA Client Information Registration and Tracking System (CIRTS) Policy Guidelines.
5. To provide an independent financial and compliance audit to the Agency as specified in **ATTACHMENT I** and to ensure all related party transactions are disclosed to the auditor.
6. To include these aforementioned audit and record keeping requirements, including **ATTACHMENT I**, in all subcontracts and assignments.
7. The provider agrees to provide client information and statistical data when requested by the Agency.
8. To provide to the Agency all fiscal information regarding services contracted to subcontractors pursuant to this agreement using an application provided by the Agency.

XIV. Retention of Records:

1. The provider shall retain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this agreement for a period of at least five (5) years after termination of the agreement, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained at least until resolution of the audit findings. These records may be subject to additional retention requirements set by law.
2. Persons duly authorized by the Agency and federal auditors, pursuant to Title 45 CFR, Part 92.42(e), (1), and (2), shall have full access to and the right to examine or duplicate any of said records and documents during said retention period or as long as records are retained, whichever is later.

XV. Monitoring and Incident Reporting:

1. The provider will be subject to an annual monitoring by the Agency. The provider will provide progress reports, including data reporting requirements as specified by the Agency to be used for monitoring progress or performance of the contractual services as specified in the service provider application.
2. The provider will be responsible for implementing all corrective actions from previous and current monitoring reports in a timely manner. The provider must assign a high priority to the resolution of monitoring findings and recommendations to ensure corrective action(s) addressing programmatic, fiscal and/or operational deficiencies are fully and timely implemented.
3. The provider will be responsible for at least one monitoring per year of its subcontractors. The provider will perform fiscal, administrative and programmatic monitoring of subcontractors to ensure contractual compliance, fiscal accountability, programmatic performance, and compliance with applicable state and federal laws and regulations.
4. The provider shall permit persons duly authorized by the Agency to inspect any records, papers, documents, facilities, goods and services of the provider and subcontractors which are relevant to this agreement and to interview any clients and employees of the provider and subcontractors to be assured of satisfactory performance of the terms and conditions of this agreement. The provider's failure to correct or justify deficiencies within a reasonable time as specified by the Agency may result in the Agency taking any of the actions identified in Section XXIV (Termination) of these provisions or the Agency deeming the provider's failure to be a breach of this agreement.
5. **Extraordinary Reporting:**
The provider shall notify the Agency's program manager immediately, but no later than within 24 hours, from the provider's awareness or discovery of problems, delays or adverse conditions that may materially affect or impair the provider's or subcontractor's ability to perform or meet agreement requirements or affect the health, safety or well-being of clients. The notice shall include a brief summary of the problem(s), a statement of the action taken or contemplated, time frames for implementation, and any assistance needed to resolve the situation. Examples of reportable conditions may include, but are not limited to:
 - a. proposed client terminations;
 - b. service quality or service delivery problems;
 - c. agreement non-compliance; and/or
 - d. provider or subcontractor financial concerns and/or difficulties.

The provider must investigate allegations regarding falsification of client information, service records, payment requests, and other related information. Substantiated allegations must be reported to the Agency's program manager within 48 hours.

In the event that a situation results in the cessation of services by a subcontractor or vendor, the provider retains the responsibility for performance under agreements and/or this agreement and must follow their own procedures to ensure that clients continue receiving services without interruption, e. g. exercising their emergency procurement procedures, temporary assumption of the direct provision of services, etc.

All written reports required by this section shall be sent to the Agency's program manager via registered mail unless otherwise advised.

XVI. Assignments and Subcontracts and/or Subagreements:

In the event the provider utilizes subcontractors to provided services pursuant to this agreement, such subcontractors shall be subject to the conditions of this agreement incorporating it by reference. This agreement does not provide any rights to said subcontractor.

For every transaction, the provider must determine if the subcontractor is a vendor rather than a subcontractor, as defined in OMB Circular A-133, subpart B, section .210, and in section 215.97, F. S., and this determination must be documented in writing. When a vendor relationship is identified, an agreement with all of the terms and conditions set forth in this agreement is not required. However, a written agreement and/or contract is required that outlines the terms of the agreement and/or contract, the goods being purchased or services to be performed, and conditions for procurement, receipt and payment for goods and services. Compliance for vendors is usually limited to these tasks unless the provider chooses to pass down program compliance to the vendor in the written agreement. The provider is ultimately responsible for assuring program compliance and performance, and any applicable conditions of this agreement.

Unless otherwise stated in the contract between the provider and the subcontractor, payments made by the provider to the subcontractor must be made within seven (7) working days after receipt by the provider of full or partial payments from the Agency in accordance with section 287.0585, F.S. Payments to vendors contracted by the provider/subcontractors shall be made in accordance with the terms as negotiated with the vendor(s). Failure to pay within these time frames may result in the Agency taking action as set forth in Section XXIV (Termination) of these provisions.

XVII. Funding Obligations:

The Agency acknowledges its obligation to pay the provider for the performance of the provider's duties and responsibilities set forth in this agreement.

The Agency shall not be liable to the provider for costs incurred or performance rendered unless such costs and performances are in accordance with the terms of this agreement, including but not limited to terms governing the provider's promised performance and unit rates and/or reimbursement capitations specified.

The Agency shall not be liable to the provider for any expenditures which are not allowable costs as defined in the C.F.R., Title 45, Parts 74 and 92, as amended, or which expenditures have not been made in accordance with all applicable state and federal rules.

The Agency shall not be liable to the provider for expenditures made in violation of regulations promulgated under the Older Americans Act, as amended, or in violation of applicable state and federal laws, rules, or provisions of this agreement.

XVIII. Return of Funds:

1. The provider agrees to return to the Agency any overpayments due to unearned funds or funds disallowed pursuant to the terms of this agreement.

- a. The provider shall return any overpayment to the Agency within forty (40) calendar days after either discovery by the provider, or notification by the Agency, of the overpayment.
- b. In the event the provider or its independent auditor discovers an overpayment has been made, the provider shall repay said overpayment within forty (40) calendar days without prior notification from the Agency. In the event the Agency first discovers an overpayment has been made, the Agency will notify the provider by letter of such a finding.
- c. Overpayments to subcontractors due to unallowable or un-allocable expenses or to vendors or subcontractors due to billing discrepancies must be returned to the provider under the same terms and conditions as this section. Information indicating subcontractors have been overpaid as a result of over-budgeting on the unit cost methodology can be used by the provider to negotiate lower rates in subsequent years. Continuous overpayment to subcontractors due to over budgeting may result in a demand for repayment to the provider or the Agency under the same terms and conditions of this section. Repayment received by the provider must be reported to the Agency and may be either re-allocated to other subcontractors or returned to the Agency, at the Agency's discretion.
- d. Overpayments not returned to the Agency in a timely manner will be subject to interest at the rate established in section 55.03, F.S.

XIX. Data Integrity

Federal Grants Management requires that a provider receiving state and federal funds must have a financial management system, which is capable of providing accurate information for prescribed reporting requirements. For the purposes of full disclosure of financial results for federally funded or state-sponsored programs and for accountability, those reporting requirements may necessitate that the provider make particular calculations and submit specific data.

Accordingly, the provider must, prior to execution of this agreement, have completed a Data Integrity Certification form, copies of which are available from the Agency's program manager.

XX. Conflict of Interest:

The provider will establish safeguards to prohibit employees, board members, management and subcontractors from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain. No employee, officer or agent of the provider or subcontractor shall participate in selection, or in the award or administration of a contract supported by State or Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: (a) the employee, officer or agent; (b) any member of his/her immediate family; (c) his or her partner, or; (d) an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The provider's or subcontractor's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from providers, potential providers, or parties to subagreements and/or subcontracts. The provider's board members and management must disclose to the Agency any relationship which may be, or may be perceived to be, a conflict of interest within thirty (30) days of an individual's original appointment or placement in that position, or if the individual is serving as an incumbent, within thirty (30) days of the commencement of this agreement. The provider's employees and subcontractors must make the same disclosures described above to the provider's board of directors. Compliance with this provision will be monitored.

XXI. Contingency Plan:

In its service provider application, the provider shall provide to the Agency a contingency plan, updated annually. The contingency plan shall set forth procedures to ensure services to clients will not be interrupted or suspended in the event the provider or its subcontractors are unable to perform its duties

under this agreement. The determination as to whether the provider is unable to perform its duties, thereby necessitating utilization of the contingency plan, shall be made at the sole discretion of the Agency.

XXII. Payment:

Pursuant to section 215.422, F.S., the Agency shall make payment within 40 days, measured from the latter of the date the Request for Payment is received or the goods or services are received, inspected and approved. Requests for Payment returned to a vendor or a provider due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed Request for Payment is provided to the Agency.

XXIII. Vendor Ombudsman:

Providers who may be experiencing problems in obtaining timely payment(s) from the Agency may contact the Vendor Ombudsman within the Department of Banking and Finance. Subcontractors and vendors experiencing problems obtaining timely payment(s) from providers may contact the Agency's program manager at (561) 684-5885.

XXIV. Termination:**1. Termination for Convenience**

Either party upon no less than sixty (60) calendar days notice, without cause, may terminate this agreement unless a lesser time is mutually agreed upon by both parties, in writing. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. In the event the provider terminates an agreement at will, the provider agrees to submit, at the time it serves notice of the intent to terminate, a plan that identifies procedures to ensure services for clients pursuant to this agreement or any subagreement will not be interrupted or suspended by the termination. In the event that an agreement between a provider and a subcontractor is terminated, the provider shall require the subcontractor to submit to the provider and the Agency a similar plan ensuring services to clients will not be interrupted or suspended by the termination.

2. Termination Because of Lack of Funds

In the event funds to finance this agreement become unavailable, the Agency may terminate this agreement upon no less than twenty-four (24) hours notice in writing to the provider. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. The Agency shall be the final authority as to the availability of funds.

3. Termination for Breach

Unless the breach is waived by the Agency in writing, or the provider fails to cure the breach within the time specified by the Agency, the Agency may, by written notice to the provider, terminate this agreement upon no less than twenty-four (24) hours notice. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. If applicable, the Agency may employ the default provisions in section 60A-1.006(3), F. A. C. Waiver of breach of any provisions of this agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of other agreements covered under this agreement. The provisions herein do not limit either party's right to remedies at law or to damages of a legal or equitable nature.

Alternatively, at its discretion, the Agency may, for reasonable cause, suspend the payment of funds pending corrective action by the Provider or pending a decision by the Agency to terminate the agreement. The Agency may, for reasonable cause, prohibit the Provider from incurring additional obligation of any funds received from the Agency, pending corrective action by the Provider or a decision to terminate the agreement. Said suspension of payment of funds or obligation thereof may apply to all or part of the Provider's operations funded by the Agency.

The Agency's failure to terminate or suspend a Provider for past breaches of the agreement shall not be construed as a waiver of its right to demand strict compliance with the terms of the agreement or to

terminate for said breaches or similar breaches, and shall not be construed to be a modification of the terms of the Agreement.

XXV. Renegotiation or Modification:

1. Modifications of provisions of this agreement shall only be valid when they have been reduced to writing and duly signed by both parties. The parties agree to renegotiate this agreement if revisions of any applicable laws or regulations make changes necessary.
2. The rate of payment and the total dollar amount may be adjusted retroactively for this agreement only when these have been established through the appropriations process, or identified in the federal program.

XXVI. Special Provisions:

The Provider agrees to the following provisions:

A. Property & Equipment

1. Equipment means: (a) an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or \$5000 [for federal funds], or (b); nonexpendable, tangible personal property of a nonconsumable nature with an acquisition cost of \$1000 or more per unit, and expected useful life of at least one year; and hardback bound books not circulated to students or the general public, with a value or cost of \$250 or more [for state funds].
2. Providers and subcontractors who are Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations shall have written property management standards in compliance with Part 215 (formerly OMB Circular A-110) that include: (a) a property list with all the elements identified in the circular; and, (b) a procedure for conducting a physical inventory of equipment at least once every two years. The property records must be maintained on file and shall be provided to the Agency upon request.
3. The provider's property management standards for equipment acquired with Federal funds and federally owned equipment shall include accurately maintained equipment records with the following information:
 - (i) A description of the equipment.
 - (ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.
 - (iii) Source of the equipment, including the award number.
 - (iv) Whether title vests in the provider or the Federal Government.
 - (v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost.
 - (vi) Information from which one can calculate the percentage of Federal participation in the cost of the equipment (not applicable to equipment furnished by the Federal Government).
 - (vii) Location and condition of the equipment and the date the information was reported.
 - (viii) Unit acquisition cost.
 - (ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a provider compensates the Federal awarding agency for its share.
4. Equipment purchased with federal funds with an acquisition cost over \$5,000 and equipment purchased with state funds with an acquisition cost over \$1,000 that is specifically identified in

the service provider application approved by the Agency is part of the cost of carrying out the activities and functions of the grant awards and Title (ownership) will vest in the provider, subject to the conditions of Part 215 (formerly OMB Circular A-110), Subpart C, paragraph .34. Equipment purchased under these thresholds is considered supplies and is not subject to property standards. Equipment purchased with funds identified in the budget attachment to this agreement, or identified in the sub-agreements with sub-providers (not included in a cost methodology), is subject to the conditions of section 273, F. S. and 60A-1.0017, F. A. C. or Title 45 CFR part 74.

5. Real property means land (including land improvements), buildings, structures and appurtenances thereto, but excludes movable machinery and equipment. Real property may not be purchased with state or federal funds through agreements covered under this agreement without the prior approval of the Agency. Real property purchases from Older Americans Act funds are subject to the provisions of Title 42, Chapter 35, Subchapter III, Part A., Sec. 3030b United States Code (USC). Real property purchases from state funds can only be made through a fixed capital outlay grants and aids appropriation and therefore are subject to the provisions of section 216.348, F. S.
6. Any permanent storage devices (e.g.: hard drives, removable storage media) must be reformatted and tested prior to disposal to ensure no confidential information remains.
7. An amendment to the service provider application must be submitted by the provider and approved by the Agency's fiscal grants manager prior to the purchase of any item of nonexpendable property not specifically listed in the approved budget.
8. Information Technology Resources
The provider must adhere to the Agency's procedures and standards when purchasing Information Technology Resources (ITR) as part of this agreement. An ITR worksheet is required for any computer related item costing \$1,000.00 or more, including data processing hardware, software, services, supplies, maintenance, training, personnel and facilities. The completed ITR worksheet shall be maintained in the LAN administrator's file and must be provided to the Agency upon request. The provider has the responsibility to require any subcontractors to comply with the Agency's ITR procedures.

B. Copyright Clause

The provider may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under this agreement. The Agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for state and federal purposes, and to authorize others to do so. Other rights of the Agency and provider are described in Title 45 CFR, sec. 74.36, and section 286.021, F.S.

C. Investigation of Criminal Allegations

Any report that implies criminal intent on the part of this provider or any subcontractor and referred to a governmental or investigatory agency must be sent to the Agency. If the provider has reason to believe that the allegations will be referred to the State Attorney, a law enforcement agency, the United States Attorney's Office, or other governmental agency, the provider shall notify the Agency and Inspector General at the DOEA immediately. A copy of all documents, reports, notes or other written material concerning the investigation, whether in the possession of the provider or subcontractor, must be sent to the DOEA's Inspector General with a summary of the investigation and allegations.

D. Disaster

In preparation for the threat of an emergency event as defined in the State of Florida Comprehensive Emergency Management Plan, the DOEA may exercise authority over an area agency or providers to implement preparedness activities to improve the safety of the elderly in the threatened area and to secure area agency and service provider facilities to minimize the potential impact of the event. These actions will be within the existing roles and responsibilities of the area agency and its providers.

In the event the President of the United States or Governor of the State of Florida declares a disaster or state of emergency, the DOEA may exercise authority over an area agency or providers to implement emergency relief measures and/or activities.

In either of these cases, only the Secretary, Deputy Secretary of the DOEA or his/her designee shall have such authority to order the implementation of such measures. All actions directed by the DOEA and the Agency under this section shall be for the purpose of ensuring the health, safety and welfare of the elderly in the potential or actual disaster area.

The provider must develop, and implement, as needed, a comprehensive emergency management plan that incorporates operational procedures for preparation, response and continuity of operations, including client services, in the aftermath of declared emergency event. These plans must include the names of designated emergency contact persons and be updated annually and submitted to the Director of Planning and Project Development at the Agency by May 1 of each year.

E. Volunteers

The provider will promote the use of volunteers as prescribed in section 306(a)(12), Older Americans Act and section 430.07, F.S.. In addition, the provider will increase the use of volunteers in the planning and service area by providing training, technical assistance and funding, where possible, to support volunteer efforts of their subcontractors.

F. Management Information Systems

Where collection of client data in electronic format (CIRTS, for example) is required:

1. The Agency shall employ a Local Area Network (LAN) Administrator who shall assure the provider's compliance with the requirements of the "LAN Administrator Guidelines" adopted by the DOEA. These "Guidelines" delineate the roles and responsibilities of the Local Area Network Administrator. The provider shall assure any other support necessary for full "LAN Administrator Guidelines" compliance, including reporting to the DOEA the operational status of their LAN and Wide Area Network (WAN) in accord with the frequency and format directed in these "Guidelines".
2. The Agency will ensure the collection and maintenance of client and service information on a monthly basis from CIRTS or any such system designated by the DOEA. Maintenance includes valid exports and backups of all data and systems according to DOEA standards.
3. Providers must enter all required data per the DOEA CIRTS Policy Guidelines for clients and services in the CIRTS database. The data must be entered into CIRTS before the subcontractors submit their request for payment and expenditure reports to the provider. The provider shall establish time frames to assure compliance with due dates for the requests for payment and expenditure reports to the Agency.

4. The provider will run monthly CIRTS reports and verify that client and service data in CIRTS is accurate. This report must be submitted to the Agency with the monthly request for payment and expenditure report and must be approved by the Agency prior to payment.
5. Failure to ensure the collection and maintenance of the CIRTS data may result in the Agency delaying or withholding payment until the problem is corrected or enacting Section XXIV. (Termination) of these provisions.
6. **Computer System Backup and Recovery**
Each provider and subcontractor, among other requirements, must anticipate and prepare for the loss of information processing capabilities. The routine backing up of all data and software is required to recover from losses or outages of the computer system. Data and software essential to the continued operation of provider functions must be backed up. The security controls over the backup resources shall be as stringent as the protection required of the primary resources. It is recommended that a copy of the backed up data be stored in a secure, offsite location. The provider shall maintain written policies and procedures for computer system backup and recovery and shall have the same requirement in its contracts and/or agreements with subcontractors. These policies and procedures shall be made available to the Agency upon request.

G. Consumer Outcomes

1. The provider will develop client outcome measures consistent with those developed by the Agency and the DOEA.
2. The provider will be responsible for achieving targets set by the legislature for performance based program budgeting and will incorporate into subagreements as necessary.
3. The provider will submit outcome reports to the Agency on a monthly basis. A written response must be submitted to any and all outcome measures that indicate the provider has not met the year-to-date target. Providers will submit the reports to their program manager no later than the tenth (10) of each month.

H. Management Objectives

The provider shall:

1. Ensure that the Board completes an annual performance evaluation of the executive director;
2. Ensure that documentation is kept of meetings, including board approval of policies and procedures, board approval of budgets, extraordinary reporting, and complete disclosure of the financial condition of the agency;
3. Ensure that adequate planning and preparation occurs in the development of the service provider application and subsequent amendments within Agency established time frames; and
4. Ensure that operations and service delivery reflect the communities it serves, including community input in service provider application and inclusion of community representation in provider's governing board.

I. Use of Service Dollars/Wait List Management:

The provider is expected to spend all federal state and other funds provided by the Agency, for the purpose specified in this agreement. For each program managed by the provider, the provider must manage the service dollars in such a manner so as to avoid having a wait list and a surplus of funds at the end of the year. If the Agency determines that the provider is not spending service dollars accordingly, the Agency may transfer funds to other providers during the year and/ or adjust subsequent funding allocations accordingly, as allowable under state and federal law.

J. Community Resource Update:

The provider agrees to verify and submit updated information within one month after execution of this agreement and twice yearly thereafter, during the months of February and August, to the community health and human services agency/program database managed by The Center for Information and Crisis Services (211). Compliance with this requirement will be monitored.

K. Partnership for Aging:

Palm Beach County providers will actively participate as members of the Palm Beach County Partnership for Aging, Inc.

IN WITNESS THEREOF, the parties hereto have caused this 27 page agreement to be executed by their undersigned officials as duly authorized.

PROVIDER: PALM BEACH COUNTY,
FLORIDA, A Political
Subdivision of the State of
Florida

Area Agency on Aging of Palm Beach/
Treasure Coast, Inc.

SIGNED
BY: _____
Addie L. Greene, Chairperson

DATE: _____

SHARON R. BOCK, Clerk and Comptroller

BY: _____

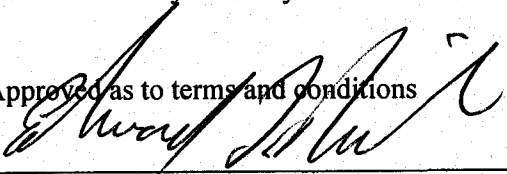
DATE: _____

FEDERAL ID NUMBER: 59-6000785

FISCAL YEAR END DATE: _____

Approved as to form and legal sufficiency

Assistant County Attorney

Approved as to terms and conditions


Department Director

SIGNED
BY: _____

NAME: _____

TITLE: _____

DATE: _____

ATTACHMENT I

AUDITS

The administration of funds awarded by the Agency to the provider, and the subcontractors through agreements with the provider, may be subject to audits and/or monitoring by the Agency and authorized state or federal personnel as described in this section.

Monitoring

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and section 215.97, F.S., as revised (see below), monitoring procedures may include, but not be limited to, on-site visits by Agency staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this agreement, the provider agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Agency. In the event the Agency determines that a limited scope audit of the provider is appropriate, the provider agrees to comply with any additional instructions provided by the Agency to the provider regarding such audit. The provider further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Agency, Chief Financial Officer of the Department of Financial Services, Auditor General or federal personnel.

OTHER REQUIREMENTS

If the provider is a non-profit organization, A Oath of Not for Profit Status form must be completed and returned to the Agency annually.

PART I: FEDERALLY FUNDED

This part is applicable if the provider or subcontractor is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

1. In the event that the provider or subcontractor expends \$500,000 or more in Federal awards in its fiscal year, the provider or subcontractor must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Federal funds awarded through the Agency by this agreement, if any, are indicated in section II. A. In determining the Federal awards expended in its fiscal year, the provider or subcontractor shall consider all sources of Federal awards, including Federal funds received from or passed through the Agency. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the provider or subcontractor conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1., the provider or subcontractor shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the provider or subcontractor expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the provider expends less than \$500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal funds (i.e., the cost of such an audit must be paid from provider resources obtained from other than Federal entities).
4. Information regarding audit requirements contained in OMB Circular A-133 and section 215.97, F.S., can be obtained from the following web sites:

<http://www.whitehouse.gov/omb/circulars/>

and:

<http://www.leg.state.fl.us/>

PART II: STATE FUNDED

This part is applicable if the provider is a non-state entity as defined by section 215.97, F.S.

1. In the event that the provider expends a total amount of State awards (i.e., State financial assistance provided to the provider to carry out a State project) equal to or in excess of \$500,000 in any fiscal year of such provider, the provider must have a State single or project-specific audit for such fiscal year in accordance with section 215.97, F.S.; applicable rules of the Executive Office of the Governor and the Chief Financial Officer, Department of Financial Services, and Chapter 10.600, Rules of the Auditor General. State grants and aids amounts awarded through the Agency by this agreement are indicated in section II. A. In determining the State awards expended in its fiscal year, the provider shall consider all sources of State awards, including State funds received from the Agency, other state agencies, and other nonstate entities except that State awards received by a non-state entity for Federal program matching requirements shall be excluded from consideration.
2. In connection with the audit requirements addressed in Part II, paragraph 2, the provider shall ensure that the audit complies with the requirements of section 215.97, F.S.. This includes submission of a reporting package as defined by section 215.97, F.S., and Chapter 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations) Rules of the Auditor General, to include an auditor's examination attestation report, management assertion report (alternatively, management's assertion may be included in the management representation letter), and a schedule of State financial assistance.

The auditor's examination attestation report must indicate whether management's assertion as to compliance with the following requirements is fairly stated, in all material respects: activities allowed or unallowed; allowable costs/cost principles; matching (if applicable), and; reporting.

3. If the provider expends less than \$500,000 in State awards in its fiscal year, an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. In the event that the provider expends less than \$500,000 in State awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from non-State funds (i.e., the cost of such an audit must be paid from the provider's resources obtained from other than State entities).

PART III: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this attachment shall be submitted, when required by section .320 (d), OMB Circular A-133, as revised, by or on behalf of the provider directly to each of the following within 45 days of receipt of the report but no later than nine (9) months of provider's fiscal year end:

A. Two copies to the Agency at the following address:

**Area Agency on Aging
Attn.: Fiscal Director
1764 N. Congress Avenue, Suite 201
West Palm Beach, FL 33409**

B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

**Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132**

- C. Other Federal agencies and pass-through entities in accordance with sections .320 (e) and (f), OMB Circular A-133, as revised.
2. The provider shall submit two copies of the reporting package described in section .320 (c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the Agency at the following address within 45 days of receipt of the report but no later than nine (9) months of provider's fiscal year end:

**Area Agency on Aging
Attn.: Fiscal Director
1764 N. Congress Avenue, Suite 201
West Palm Beach, FL 33409**

3. Copies of audits and reporting packages required by PART II of this attachment shall be submitted by or on behalf of the provider directly to each of the following within 45 days of receipt of the report but no later than nine (9) months of provider's fiscal year end:

- A. The Agency at the following address:

**Area Agency on Aging
Attn.: Fiscal Director
1764 N. Congress Avenue, Suite 201
West Palm Beach, FL 33409**

- B. The Auditor General's Office at the following address:

**State of Florida Auditor General
Room 574, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32302-1450**

4. Any reports, management letters, or other information required to be submitted to the Agency pursuant to this attachment shall be submitted timely in accordance with OMB Circular A-133, section 215.97 F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable and should indicate the date that the reporting package was delivered to the provider in correspondence accompanying the package.
5. Providers, when submitting the financial reporting packages to the Agency, should indicate the date that the audit report was delivered to the provider in correspondence accompanying the audit report.

PART IV: RECORD RETENTION

The provider shall retain sufficient records demonstrating its compliance with the terms of this attachment for a minimum period of **five (5)** years from the date the audit report is issued or longer if requested by the Agency in writing, and shall allow the Agency or its authorized designee, and the Chief Financial Officer, Department of Financial Services or Auditor General access to such records upon request. The provider shall ensure that audit working papers are made available to the Agency or its designee, and the Chief Financial Officer, Department of Financial Services or Auditor General upon request, for a minimum period of **five (5)** years from the date the audit report is issued, or may need to be longer if requested in writing by the Agency.

PART V: SPECIFIC REQUIREMENTS OF AGENCY ADMINISTERED PROGRAMS

1. The Agency requires a supplemental schedule of functional expenses be prepared in a format provided by the Agency, which presents costs by service (as defined by the Agency), including units of service delivered, for providers or subcontractors expending state or federal awards for services performed by their employees, providers, and other payees who receive payment from Agency-administered funds for units of service

recorded in CIRTS. This supplemental schedule shall be prepared using the same methodology as used in determining the contractual rates. Government entities are excluded from this requirement.

2. If an audit is not required or performed, the provider must provide a written attestation, under penalty of perjury, that the provider has complied with the allowable cost provisions (congruent with the Reference Guide for State Expenditures and Cost Principles 225 (A-87) and 230 (A-122), and Federal Acquisition Regulation 31.2, whichever is applicable). EXHIBIT 1 to this attachment provides an example attestation document that should be used by the provider for agreements to attest to compliance with these provisions.
3. Interest earned on federal funds or general revenue funds must be returned to the Agency. A chart is included in all agreements identifying the funding source(s), program titles, applicable CFDA or CSFA numbers and the amount of funds granted.
4. Specific requirements for match, co-payments, and program income applicable to programs administered by the Agency are outlined in the following applicability chart. Brief definitions of terms used in the chart are included.

(Revised February 2004)

ATTACHMENT II

**MINIMUM GUIDELINES FOR CLIENT GRIEVANCE PROCEDURES
APPLICABLE TO ALL ADVERSE ACTIONS DEEMED TERMINATIONS, SUSPENSIONS, OR
REDUCTIONS IN SERVICE**

Medicaid Waiver clients have the right to request a fair hearing from the Department of Children and Families (DCF) Office of Appeal Hearings in addition to or as an alternative to these procedures.

NOTICE TO THE CLIENTS OF THE ADVERSE ACTION TO BE TAKEN AND EXPLANATION OF THE GRIEVANCE PROCEDURES FOR REVIEWING THAT DECISION

- The client must be informed by the decision maker of the action, in writing, no less than 10 calendar* days prior to the date the adverse action will be taken. (Prior notice is not applicable where the health or safety of the individual is endangered if action is not taken immediately; however, notice must be made as soon thereafter as practicable.)
- Services cannot be reduced or terminated, nor any adverse action taken during the 10 day period.
- The Notice must contain:
 - a statement of what action is intended to be taken;
 - the reasons for the intended action;
 - an explanation of:
 - the individual's right to a grievance review if requested in writing and delivered within 10 calendar* days of the Notice postmark (assistance in writing, submitting and delivering the request must be offered and available to the individual);
 - in Medicaid Waiver actions, the individual's right to request a fair hearing from DCF;
 - the individual's right, after a grievance review, for further appeal;
 - the right to seek redress through the courts if applicable;
 - a statement that current benefits will continue if a grievance review is requested, and will continue until a final decision is made regarding the adverse action; and
 - a statement that the individual may represent himself/herself or use legal counsel, a relative, a friend, or other qualified representative in the requested review proceedings.
- All records of the above activities must be preserved in the client's file.

GRIEVANCE REVIEW PROCEDURE UPON TIMELY RECEIPT OF A WRITTEN REQUEST FOR REVIEW

- Within 7 calendar* days of the receipt of a request for review, the provider must acknowledge receipt of the request by a written statement delivered to the requester. This statement must also provide notice of:
 - the time and place scheduled for the review;
 - the designation of one or more impartial reviewers who have not been involved in the decision at issue;
 - the opportunity to examine, at a reasonable time before the review, the individual's own case record, and to a copy of such case record at no cost to the individual;
 - the opportunity to informally present argument, evidence, or witnesses without undue interference at a reasonable time before or during the review;
 - a contact person for any accommodations required under the Americans with Disabilities Act; and assistance, if needed, in order to attend the review; and the stopping of the intended action until all appeals are exhausted.
- All grievance reviews must be conducted at a reasonable time, date and place by one or more impartial reviewers who have not been directly involved in the initial determination of the action in question.
- The reviewer(s) must provide written notification to the requester, within 7 calendar* days after the grievance review, stating:
 - the decision, the reasons therefore in detail;

- the effect the decision has on current benefits, if favorable, or the circumstances regarding continuation of current benefits until all appeals are exhausted;
- the individual's right to appeal an adverse decision to the Area Agency on Aging by written request within 7 calendar* days, except in decisions involving the professional judgement of a legal assistance provider;
- the availability of assistance in writing, submitting and delivering the appeal to the appropriate agency;
- the opportunity to be represented by himself/herself or by legal counsel, a relative, a friend or other qualified representative;
- for legal assistance service appeals, the individual's right to file a grievance with the Florida Bar regarding complaints related to the actual legal representation provided.

PROCEDURE FOR APPEALS OF A GRIEVANCE REVIEW DECISION UPON TIMELY RECEIPT OF A WRITTEN APPEAL TO THE AREA AGENCY ON AGING

- Within 7 calendar* days of the receipt of a notice of appeal of a grievance review decision, the AAA must acknowledge receipt of the notice of appeal by a written statement delivered to the appellant. This statement must also provide notice of:
 - the time and place scheduled for the appeal;
 - the designation of one or more impartial AAA officials who have not been involved in the decision at issue;
 - the opportunity to examine at a reasonable time before the appeal the individual's own case record to date, and to a copy of such case record at no cost to the individual;
 - the opportunity to informally present argument, evidence, or witnesses without undue interference during the appeal;
 - assistance, if needed, in order to attend the appeal;
 - and the stopping of the intended action until all appeals are exhausted.
- All appeals of grievance reviews must be conducted at a reasonable time, date and place by one or more impartial AAA officials who have not been directly involved in the initial determination of the action in question.
- The designated AAA official(s) must provide written notification to the requester within 7 calendar* days after considering the grievance review appeal, stating:
 - the decision, and the reasons therefore in detail;
 - the effect the decision has on current benefits, if favorable, or the circumstances regarding continuation of current benefits until all appeals are exhausted;
 - the individual's right to appeal, if applicable.
- Except for Medicaid Waiver actions, the decision of the AAA shall be the final decision; and
- The availability of assistance in requesting a fair hearing, including a notice regarding accommodations as required by the ADA.
- All records of the above activities must be preserved and remain confidential. A copy of the final decision must be placed in the client's file.

* In computing any period of time prescribed or allowed by these guidelines, the last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday.

EMERGENCY CERTIFICATION FOR RETROACTIVE PAYMENT

Background

The Area Agency is awarding the Palm Beach County Board of County Commissioners, NSIP funds for the 2007-08 program year. The purpose of these funds is to service at risk clients who are in danger of nursing home placement. Eligibility guidelines are outlined in the Department of Elder Affairs Client Services Manual.

Justification

The Palm Beach County Board of County Commissioners will be providing NSIP services to OAA eligible clients beginning October 1, 2007 however, since the contract will not be signed by that time, it will require certification for retroactive payment back to October 1, 2007. The provision of these services will aid the client and/or caregiver in remaining independent and prevent or delay institutionalization.

Certification

I hereby certify this situation to constitute an emergency pursuant to Chapter 287, Florida Statutes, and approve payment of the contract between the Area Agency on Aging and the Palm Beach County Board of County Commissioners starting October 1, 2007.

BELOW TO BE FILLED OUT BY THE AREA AGENCY ON AGING

Name

Title

Area Agency on Aging of Palm Beach/Treasure Coast, Inc.

Date

ATTESTATION STATEMENT

Agreement/Contract Number IU008-9500

Amendment Number N/A

I, Addie L. Greene, Chairperson, attest that no changes or revisions have been
(Provider Representative)

made to the content of the above referenced agreement/contract or amendment between the
Area Agency on Aging of Palm Beach/Treasure Coast, Inc. and Palm Beach County Board of
County Commissioners. The only exception to this statement would be for changes in page
formatting, due to the differences in electronic data processing media, which has no affect on the
agreement/contract content.

Signature of Provider Representative

Date