

STATE OF MAINE
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agreement to Purchase Services

THIS AGREEMENT, made this 1st day of July, 2009, is by and between the State of Maine, Department of Health and Human Services, hereinafter called "Department," and Southern Maine Area Agency on Aging mailing address 136 US Route One, Scarborough, ME 04070, physical address 136 US Route One, Scarborough, ME 04070, hereinafter called "Provider, for the period of July 1st, 2009 to June 30th 2010.

The Vendor Customer Number of the Provider is VC1000085010.

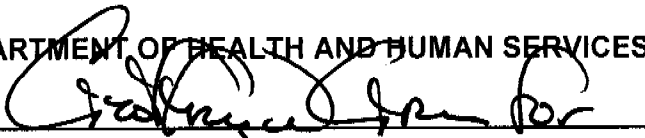
WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Department, the Provider hereby agrees with the Department to furnish all qualified personnel, facilities, materials and services and in consultation with the Department, to perform the services, study or projects described in Rider A, and under the terms of this Agreement. The following riders are hereby incorporated into this Agreement and made part of it by reference:

- Rider A -- Specifications of Work to be Performed
- Rider B -- Payment and Other Provisions
- Rider C -- Rider B Exceptions
- Rider D -- Additional Requirements
- Rider E -- Program Requirements
- Rider F -- Budget; F-1 Agreement Settlement Form; F-2 Agreement Compliance Form
- Rider G -- Identification of Country In Which Contracted Work Will Be Performed
- Rider I -- Assurance of Compliance

WITNESSETH, that this contract is consistent with Executive Order 01 FY 08/09 or a superseding Executive Order, and complies with its requirements.

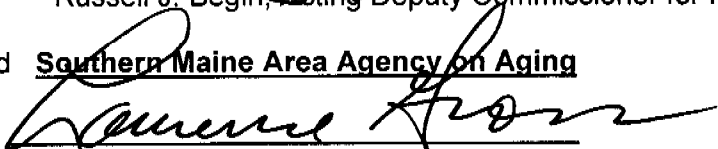
IN WITNESS WHEREOF, the Department and the Provider, by their representatives duly authorized, have executed this agreement in one original copy.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

By: 

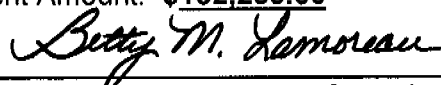
Russell J. Begin, ~~Acting~~ Deputy Commissioner for Finance

And Southern Maine Area Agency on Aging

By: 

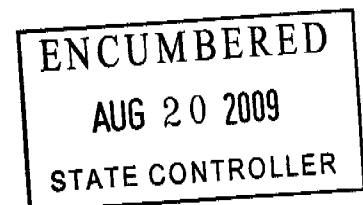
Laurence W. Gross, Executive Director

Total Agreement Amount: \$132,259.00

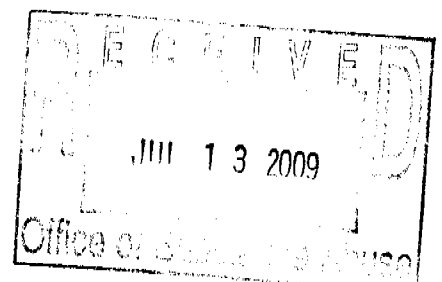
Approved: 

Chair, State Purchases Review Committee

BP54



AUG 20 2009



**STATE OF MAINE
STANDARD AGREEMENT COVER PAGE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**STATE OF MAINE
DEPARTMENT OF HEALTH & HUMAN SERVICES**

PROVIDER SUMMARY PAGE

Community Agency/Program Name: Southern Maine Agency on Aging

TTY: 207-883-0532

Executive Director: Laurence W. Gross

Telephone #: 207-396-6501 Fax #: 207-396-6528

Address: 136 U.S. Route 1, Scarborough, ME 04074

E-mail address: lgross@smaaa.org

Agreement Contact Person: Thomas J. O'Connor

Telephone #: 207-396-6505 Fax #: 207-396-6528

Address: 136 U.S. Route 1, Scarborough, ME 04074

E-mail address: toconnor@smaaa.org

Fiscal Contact Person: See Contact person

Telephone #: _____ Fax #: _____

Address: _____

E-mail address: _____

Clinical Director: Frank Schiller

Telephone #: 207-854-6808 Fax #: 207-854-8815

Address: 30 Liza Harmon Drive, Westbrook, ME 04092

E-mail address: fshiller@smaaa.org

IT Services Contact: Dan Knox

Telephone #: 207-396-6517 Fax #: 207-883-8249

Address: 136 U.S. Route 1, Scarborough, ME 04074

E-mail address: dknox@smaaa.org

Other Contact Information:

List all locations where client services are provided and include the contact person, telephone number, and hours of service.

Service	Service Site	Contact Person	Telephone #	Hours of Service	License Type and Capacity

RIDER A

I. AGREEMENT FUNDING SUMMARY

Funds are provided under this Agreement for the provision of Area Agency on Aging functions and services. The level of funding and service descriptions are detailed in Section III Service Specifications and Performance Guidelines and summarized in Budget Form 6 Summary of Services Purchased.

II. GENERAL REQUIREMENTS

A. Reporting

The Provider understands that the reports are due within the timeframes established and that the Department will not make subsequent payment installments under this Agreement until such reports are received, reviewed and accepted.

Additionally, in cases of the Provider's non-compliance with these reporting requirements, as applicable the Department may contact the Department of Health and Human Services', Bureau of Medical Services to request suspension of MaineCare payments until the problem is resolved.

The Provider further agrees to submit such other data and reports as may be requested by the Agreement Administrator. The Provider shall submit all data and reports to the Department in accordance with 34-B M.R.S.A. §1207 and in accordance with Section 6 of Rider B of this Agreement.

The Provider agrees to submit the types of reports checked below, to be submitted as frequently as indicated. Provider understands that such reports are due at the Department (submitted directly to OES) within 25 days after the end of each specified time period, and that subsequent payment installments will not be made until such reports are received and reviewed. Provider further agrees to submit such other data and reports as may be requested by the Agreement Administrator.

Reporting Requirements

X **Program reports**, that include an unduplicated count of people served by program, and the types and amounts of services provided and/or purchased, as described in Section III, Service Specifications/Performance Guidelines.
Monthly ☐ Quarterly ☒ Six Months ☐ Annual ☐

Unduplicated counts are not required for the following services(s) N/A

While specific reporting requirements are still being finalized, States and Tribes will be required to report ARRA data on a quarterly basis via an on-line, internet based system. This data may include the number of home delivered and congregate meals provided, number of people served, number of jobs created and/or retained, as well as, the amount of ARRA funds expended. A copy of the draft Standard Data Elements for Reports Under Section 1512 of the ARRA is attached.

X **Performance reports**, describing the progress in achieving the agreement goals, indicators, strategies, and measures, including any applicable data, for the services listed below.

Monthly ☐ Quarterly ☐ Six Months ☒ Annual ☐

One or two performance goals must be developed specifically for American Recovery and Reinvestment Act of 2009 (ARRA) funds

 Narrative reports, addressing the points specified below.
Monthly ☐ Quarterly ☐ Six Months ☒ Annual ☐

 If **National Aging Program Information System (NAPIS) report;**
 requir Administration on Aging (for area agencies on aging only).
 ed by Monthly ☐ Quarterly ☒ Six Months ☐ Annual ☐
 AoA

 X **Income and expense reports**, based on accrual accounting, reflecting accounts payable and receivable, for every program listed on Rider A, III G. Summary Cost Form-Schedule A-Income and Expenses.
Monthly ☐ Quarterly ☒ Six Months ☐ Annual ☐
Separate tracking will be required
 Other;

 Other;
Monthly ☐ Quarterly ☐ Six Months ☐ Annual ☐

 X **Other; FSR**
Monthly ☐ Quarterly ☒ Six Months ☐ Annual ☐
Separate tracking will be required

 Other;
Monthly ☐ Quarterly ☐ Six Months ☐ Annual ☐

 Other;
Monthly ☐ Quarterly ☐ Six Months ☐ Annual ☐

 Other:
Monthly ☐ Quarterly ☐ Six Months ☐ Annual ☐

III. SERVICE SPECIFICATIONS AND PERFORMANCE GUIDELINES

A. Description of Services

Listed below are the definitions of the services to be provided through this agreement, either directly or through a sub agreement. (Check off which services will be provided, and add definitions for any other service(s) provided that are not include don this list.)

- X** **NUTRITION, CONGREGATE MEALS:** Congregate meals are served to eligible people defined in OES Policy, Section 65. Congregate sites receiving federal funds must meet the requirements of Section 65. Congregate sites receiving federal funds must meet the requirements of Section 65. Meals must meet the current Dietary Guidelines for Americans and the Dietary Reference Intakes (DRI).

- X** **NUTRITION, HOME DELIVERED MEALS:** Home-Delivered Meals are served to individuals who meet the criteria in OES Policy, Section 65. Eligibility is determined using and OES approved Home-Delivered Meals Assessment. Eligible consumers are those who are in one of the groups in Section 65.05 (A)(2), are unable to prepare meals and have no support to prepare meals, are homebound or otherwise isolated, and not residing in assisted housing where meals are available. Meals must meet the current Dietary Guidelines for Americans and the Dietary Reference Intakes (DRI).

B. Performance Goals, Indicators, Strategies, and Measures

OFFICE OF ELDER SERVICES

AREA AGENCY ON AGING CONTRACTS **PERFORMANCE REPORT GUIDANCE** - effective 7/1/2007

The **Performance Report** is completed annually by the area agencies on aging and submitted to OES within 30 days after the end of the fiscal year. It is required for the following programs/service areas: Aging and Disability Resource Center, Alzheimer's Respite, Family Caregiver Support Program, Independent Housing with Services Program, Nutrition, Outreach/Information & Assistance/Referral and Transportation.

For each of the services described in *Rider A, Section III, Service Specifications and Performance Guidelines*, *B. Performance Goals, Indicators, Strategies, and Measures* of the contract, describe the measurement outcomes and attach any applicable supporting data.

Definitions:

- **Goal** – Statement of what is to be accomplished by the agency's actions or activities
- **Indicator** – A value used to measure current conditions
- **Strategy** – The plan of action; what the agency intends to do to accomplish the goal
- **Baseline** – A measurement used as a basis for comparison
- **Measure** – The degree or level at which the goal was accomplished

OES – AREA AGENCY ON AGING CONTRACT

Office of Elder Services
442 Civic Center Drive
11 State House Station
Augusta, ME 04333-0011

Performance Report for SFY:
Agency: Southern Maine Area Agency on Aging
Program Contact: Larry Gross
Prepared By:
Submission Date:
Revision Date (if any):

Program/Service Area: American Recovery and Reinvestment Act Nutrition Services

Goal: Increase the number of participants in the nutrition program

Indicator 1:
Strategy(ies):
Baseline:
Measure(s)

Indicator 2:
Strategy(ies)
Baseline:
Measure(s)*:

Program/Service Area:__

Goal

Indicator 1
Strategy(ies):
Baseline:
Measure(s)*:

Indicator 3:

Strategy(ies): 1. 2. 3.
Baseline:
Measure(s)*: 1. Results: 2. Results: 3. Results:

*Attach supportive data, i.e. summary of survey results.

C. Additional Program Specific Requirements
(optional – only if required by OES)

RIDER B
METHOD OF PAYMENT AND OTHER PROVISIONS
For Cost Settled Agreements

1. **AGREEMENT AMOUNT** **\$ 132,259.00**

2. **INVOICES AND PAYMENTS** The Department will pay the provider as follows:

The Department shall pay the Provider seventeen monthly payments; the total amount of the payments will not exceed the agreement amount. Payments may be adjusted on a quarterly basis, based upon the level of expenditures as reported on the quarterly financial reports as indicated in Rider A.

Payments may be delayed or reduced when:

- A. The provider has not submitted required program and fiscal reports.
- B. There is an under expenditure of budgeted funds or under delivery of services amounting to 10% or more of the total agreement for 3 consecutive months.
- C. Services have been provided to ineligible recipients.
- D. An audit finding shows that the provider holds an overpayment from a prior contract.
- E. Other circumstances where, in the judgment of the Agreement Administrator, delay or reduction of payment is appropriate.

Payments are subject to the Provider's compliance with all items set forth in this Agreement and subject to the availability of funds.

3. **BENEFITS AND DEDUCTIONS** If the Provider is an individual, the Provider understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Provider further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Provider for his/her Income Tax records.

4. **INDEPENDENT CAPACITY** In the performance of this Agreement, the parties hereto agree that the Provider, and any agents and employees of the Provider shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.

5. **DEPARTMENT'S REPRESENTATIVE** The Agreement Administrator shall be the Department's representative during the period of this Agreement. He/she has authority to curtail services if necessary to ensure proper execution. He/she shall certify to the Department when payments under the Agreement are due and the amounts to be paid. He/she shall make decisions on all claims of the Provider, subject to the approval of the Commissioner of the Department.

6. **AGREEMENT ADMINISTRATOR** All progress reports, correspondence and related submissions from the Provider shall be submitted to:

Name and Title:	Ingrid B. Lapointe, Community Resource Manager Office of Elder Services
Address:	442 Civic Center Dr. 11 SHS Augusta, ME 04333-0011
Telephone:	287-9219
E-mail address	Ingrid. <u>Lapointe@Maine.Gov</u>

who is designated as the Agreement Administrator on behalf of the Department for this Agreement, except where specified otherwise in this Agreement

The following is designated as the Program Administrator for this Agreement and shall be responsible for oversight of the programmatic aspects of this Agreement.

Name and Title: Mary Walsh, Director
Office of Elder Services
Address: 442 Civic Center Dr.
11 SHS
Augusta, ME 04333-0011
Telephone: 287-9207
E-mail address: Mary.Walsh@Maine.Gov

7. **CHANGES IN THE WORK** The Department may order changes in the work, the Agreement Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment, signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to execution of the work.

8. **SUB-AGREEMENTS** Unless provided for in this Agreement, no arrangement shall be made by the Provider with any other party for furnishing any of the services herein contracted for without the consent and approval of the Agreement Administrator. Any sub-agreement hereunder entered into subsequent to the execution of this Agreement must be annotated "approved" by the Agreement Administrator before it is reimbursable hereunder. This provision will not be taken as requiring the approval of contracts of employment between the Provider and its employees assigned for services thereunder.

9. **SUBLETTING, ASSIGNMENT OR TRANSFER** The Provider shall not sublet, sell, transfer, assign or otherwise dispose of this Agreement or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Agreement Administrator. No subcontracts or transfer of agreement shall in any case release the Provider of its liability under this Agreement.

10. **EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this Agreement, the Provider agrees as follows:

a. The Provider shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The Provider shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

b. The Provider shall, in all solicitations or advertising for employees placed

by or on behalf of the Provider relating to this Agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

c. The Provider shall send to each labor union or representative of the workers with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Agreement a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.

e. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.

f. Contractors and subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.

g. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

11. **EMPLOYMENT AND PERSONNEL** The Provider shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Contractor shall not engage on a full-time, part-time or other basis during the period of this Agreement, any other personnel who are or have been at any time during the period of this Agreement in the employ of any State Department or Agency, except regularly retired employees, without the written consent of the State Purchases Review Committee. Further, the Provider shall not engage on this project on a full-time, part-time or other basis during the period of this Agreement any retired employee of the Department who has not been retired for at least one year, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

12. **STATE EMPLOYEES NOT TO BENEFIT** No individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly due to his employment by or financial interest in the Provider or any affiliate of the Provider, without the written consent of the State Purchases Review Committee. The Provider shall

cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

13. **WARRANTY** The Provider warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Agreement and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Department shall have the right to annul this Agreement without liability or, in its discretion to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

14. **ACCESS TO RECORDS** The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested.

15. **TERMINATION** The performance of work under the Agreement may be terminated by the Department in whole, or in part, whenever for any reason the Agreement Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be effected by delivery to the Provider of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination becomes effective. The Agreement shall be equitably adjusted to compensate for such termination, and modified accordingly.

16. **GOVERNMENTAL REQUIREMENTS** The Provider warrants and represents that it will comply with all governmental ordinances, laws and regulations.

17. **GOVERNING LAW** This Agreement shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Agreement shall be brought in State of Maine administrative or judicial forums. The Provider consents to personal jurisdiction in the State of Maine.

18. **STATE HELD HARMLESS** The Provider agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as "claims") resulting from or arising out of the performance of this Agreement by the Provider, its employees, agents, or subcontractors. Claims to which this indemnification applies include, but without limitation, the following: (i) claims suffered or incurred by any contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity (hereinafter in this paragraph referred to as "person") providing work, services, materials, equipment or supplies in connection with the performance of this Agreement; (ii) claims arising out of a violation or infringement of any proprietary right, copyright, trademark, right of privacy or other right arising out of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this Agreement; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this Agreement; (iv) claims suffered or

incurred by any person who may be otherwise injured or damaged in the performance of this Agreement; and (v) all legal costs and other expenses of defense against any asserted claims to which this indemnification applies. This indemnification does not extend to a claim that results solely and directly from (i) the Department's negligence or unlawful act, or (ii) action by the Provider taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of the Department in accordance with this Agreement.

19. **NOTICE OF CLAIMS** The Provider shall give the Contract Administrator immediate notice in writing of any legal action or suit filed related in any way to the Agreement or which may affect the performance of duties under the Agreement, and prompt notice of any claim made against the Provider by any subcontractor which may result in litigation related in any way to the Agreement or which may affect the performance of duties under the Agreement.

20. **APPROVAL** This Agreement must have the approval of the State Controller and the State Purchases Review Committee before it can be considered a valid, enforceable document.

21. **LIABILITY INSURANCE** The Provider shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Agreement with adequate liability coverage to protect itself and the Department from suits. Providers insured through a "risk retention group" insurer prior to July 1, 1991 may continue under that arrangement. Prior to or upon execution of this Agreement, the Provider shall furnish the Department with written or photocopied verification of the existence of such liability insurance policy.

22. **NON-APPROPRIATION** Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to fund this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

23. **SEVERABILITY** The invalidity or unenforceability of any particular provision or part thereof of this Agreement shall not affect the remainder of said provision or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

24. **INTEGRATION** All terms of this Agreement are to be interpreted in such a way as to be consistent at all times with the terms of Rider B (except for expressed exceptions to Rider B included in Rider C), followed in precedence by Rider A, and any remaining Riders in alphabetical order.

25. **FORCE MAJEURE** The Department may, at its discretion, excuse the performance of an obligation by a party under this Agreement in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The Department may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Agreement.

26. **SET-OFF RIGHTS** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold

for the purposes of set-off any monies due to the Provider under this Agreement up to any amounts due and owing to the State with regard to this Agreement, any other Agreement, any other Agreement with any State department or agency, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

27. **ENTIRE AGREEMENT** This document contains the entire Agreement of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Agreement that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Agreement, or to exercise an option or election under the Agreement, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Agreement or at law.

Rider C - Exceptions to Rider B

American Recovery and Reinvestment Act of 2009, Vendor Obligations

1. Since this agreement contains ARRA stimulus funds, the vendor will post any jobs that it creates or seeks to fill as a result of the stimulus funding. Vendors will post to Maine Career Centers <http://www.mainecareercenter.com/> notwithstanding any other posting they might make. Any advertisements posted by the vendor for positions pursuant to this contract must indicate that the position is funded with stimulus funds. The Department may waive the requirements of this section at its discretion.
2. The vendor will maintain detailed records of their expenditure of 2009 Stimulus Funds in connection with this agreement and submit reports as requested by the State of Maine. The State of Maine as the recipient of funds under the ARRA is subject to quarterly reporting requirements and oversight by Federal agency inspectors. Additional reports may be required under this agreement.
 - a. Optional reports may be requested at the Department's discretion. These reports are outlined in Rider A.

Rider D

Additional Requirements

1. AUDIT. Funds provided under this Agreement to community agencies for social services are subject to the audit requirements contained in the Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP-III), Federal OMB Circular A-110, and may further be subject to audit by authorized representatives of the Federal Government, according to the Agreement Settlement Form (pro forma) contained in Rider F, if applicable. This provision does not apply to contracts that provide only MaineCare seed funds.

Please see <http://www.maine.gov/sos/cec/rules/10/chaps10.htm> for details on this requirement.

2. REPORTING SUSPECTED ABUSE OR NEGLECT. The Provider shall comply with the DHHS rules for reporting abuse or neglect of children or adults pursuant to 22 MRSA §§ 3477 and 4011-A. In addition, the Provider agrees to follow the DHHS rules on reportable events pursuant to 14-197 CMR ch. 9.

3. CONFIDENTIALITY. The provider shall comply with Federal and State statutes and regulations for the protection of information of a confidential nature regarding all persons served under the terms of this Agreement. In addition, the provider shall comply with Title II, Subtitle F, Section 261-264 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, titled "Administrative Simplification" and the rules and regulations promulgated thereunder.

To the extent the Provider is considered a Business Associate under HIPAA, the Provider shall execute and deliver in form acceptable to the Department a Business Associate agreement (BA agreement). The terms of the BA agreement shall be incorporated into this Agreement by reference. The Department shall have recourse to such remedies as are provided for in this Agreement for breach of contract, in the event the Provider either fails to execute and deliver such BA agreement to the Department or fails to adhere to the terms of the BA Agreement.

4. LOBBYING. No Federal or State appropriated funds shall be expended by the Provider for influencing or attempting to influence, as prohibited by state or federal law, an officer or employee of any Federal or State agency, a member of Congress or a State Legislature, or an officer or employee of Congress or a State Legislature in connection with any of the following covered actions: the awarding of any agreement; the making of any grant; the entering into of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any agreement, grant, or cooperative agreement. The signing of this Agreement fulfills the requirement that providers receiving over \$100,000 in Federal or State funds file with the Department with respect to this provision.

If any other funds have been or will be paid to any person in connection with any of the covered actions specified in this provision, the Provider shall complete and submit a "Disclosure of Lobbying Activities" form available at:

<http://www.whitehouse.gov/omb/grants/#forms>.

5. DRUG-FREE WORKPLACE. By signing this agreement, the Provider certifies that it shall provide a drug-free workplace by: publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition; establishing a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace, the grantee's policy of maintaining a drug-free workplace, available drug counseling and rehabilitation programs, employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace; providing a copy of the drug-free workplace statement to each employee to be engaged in the performance of this agreement; notifying the employees that as a condition of employment under the agreement the employee will abide by the terms of the statement and notify the employer of any criminal drug conviction for a violation occurring in the workplace no later than five days after such conviction.

The provider shall notify the state agency within ten days after receiving notice of criminal drug convictions occurring in the workplace from an employee, or otherwise receiving actual notice of such conviction, and will take one of the following actions within 30 days of receiving such notice with respect to any employee who is so convicted: take appropriate personnel action against the employee, up to and including termination, or requiring the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

6. DEBARMENT AND SUSPENSION. By signing this agreement, the Provider certifies to the best of its knowledge and belief that it and all persons associated with the agreement, including persons or corporations who have critical influence on or control over the agreement, are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

The Provider further agrees that the Debarment and Suspension Provision shall be included, without modification, in all sub-agreements.

7. ENVIRONMENT TOBACCO SMOKE. By signing this agreement, the Provider certifies that it shall comply with the Pro-Children Act of 1994, P.L. 103-227, Part C, which requires that smoking not be permitted in any portion of any indoor facility owned, leased, or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or MaineCare funds, and portions of facilities used for inpatient drug or alcohol treatment.

Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

Also, the provider of foster care services agrees that it will comply with Resolve 2003, c. 134, which prohibits smoking in the homes and vehicles operated by foster parents.

8. MEDICARE AND MAINECARE ANTI-KICKBACK. By signing this agreement, the Provider agrees that it shall comply with the dictates of 42 U.S.C. 1320a-7b (b), which prohibits the solicitation or receipt of any direct or indirect remuneration in return for referring or arranging for the referral of an individual to a provider of goods or services that may be paid for with Medicare, MaineCare, or state health program funds.

9. PUBLICATIONS. When issuing reports, brochures, or other documents describing programs funded in whole or in part with funds provided through this agreement, the Provider agrees to clearly acknowledge the participation of the Department of Health and Human Services in the program. In addition, when issuing press releases and requests for proposals, the Provider shall clearly state the percentage of the total cost of the project or program to be financed with agreement funds and the dollar amount of agreement funds for the project or program.

10. MOTOR VEHICLE CHECK. The Provider shall complete a check with the Bureau of Motor Vehicles on all of Provider's staff and volunteers who transport clients or who may transport clients. This check must be completed before the Provider allows the staff person or volunteer to transport clients, and at least every two years thereafter. If the record of a staff member or volunteer contains an arrest or conviction for Operating under the Influence or any other violations which, in the judgment of the Provider, indicate an unsafe driving history within the previous three (3) years, the Provider shall not permit the staff member or volunteer to transport clients. The Provider shall implement appropriate procedures to ensure compliance with the requirements of this section.

11. OWNERSHIP. All notebooks, plans, working papers, or other work produced in the performance of this Agreement that are related to specific deliverables under this Agreement, are the property of the Department and upon request shall be turned over to the Department.

12. SOFTWARE OWNERSHIP. Upon request, the State and all appropriate federal agencies shall receive a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to do so, all application software produced in the performance of this Agreement, including, but not limited to, all source, object, and executable code, data files, and job control language, or other system instructions. This requirement applies only to software that is a specific deliverable under this Agreement, or is integral to the program or service funded under this Agreement, and is primarily financed with funding provided under this Agreement.

13. EXCEPTIONS TO OMB CIRCULARS FOR NON-FEDERALLY-FUNDED ACTIVITIES.

(a) Travel. The reimbursement rate for mileage charged to DHHS funded programs cannot exceed the reimbursement rate allowed for state employees. (5 M.R.S.A. §1541(13)(A)).

(b) Any other exceptions to OMB Circular A-122 are allowable only with prior written approval from the Department and must be offset against identified unrestricted non-Federal revenue.

14. MAINECARE REGULATIONS. Providers who receive MaineCare funds will assure that their programmatic and financial management policies and procedures are in accordance with applicable MaineCare regulations and that their staff members are familiar with the requirements of the applicable MaineCare service they are providing. Providers will ensure that they are in compliance with the applicable MaineCare regulation prior to billing for the service.

15. REVENUE MAXIMIZATION. The Provider shall conduct its services in such a way as to maximize revenues from MaineCare and other third-party sources such as private insurance as may be available to reduce the need for funds from the Department. Contract funds may not be used to pay for services that are reimbursable by other third party sources, such as private health insurance and MaineCare, under any circumstances. It is the Provider's obligation to seek and obtain reimbursement from other third party sources for any reimbursable services provided to covered individuals.

16. BACKGROUND CHECKS. The Provider agrees to conduct background checks on all prospective employees, persons contracted or hired, consultants, volunteers, students, and other persons who may provide services under this contract. Background checks on persons professionally licensed by the State of Maine will include a confirmation that the licensee is in good standing with the appropriate licensing board or entity. The Provider shall not hire or retain in any capacity any person who may directly provide services to a client under this contract if that person has a record of:

- (a) any criminal conviction that involves client abuse, neglect or exploitation;
- (b) any criminal conviction in connection to intentional or knowing conduct that caused, threatened, solicited or created the substantial risk of bodily injury to another person;
- (c) any criminal conviction resulting from a sexual act, contact, touching or solicitation in connection to any victim; or
- (d) any other criminal conviction, classified as Class A, B or C or the equivalent of any of these, or any reckless conduct that caused, threatened, solicited or created the substantial risk of bodily injury to another person within the preceding two years. Employment of persons with records of such convictions more than two years ago is a matter within the Provider's discretion after consideration of the individual's criminal record in relation to the nature of the position.

The Provider shall contact child protective services units within State government to obtain any record of substantiated allegations of abuse, neglect or exploitation against an employment applicant before hiring the same. In the case of a child protective services investigation substantiating abuse, neglect or exploitation by a prospective employee of the Provider, it is the Provider's responsibility to decide what hiring action to take in response to that substantiation, while acting in accordance with licensing standards.

Providers are not required to obtain records from child protective services for employees who (a) do not provide services to children, and (b) work in settings where there is on-site supervision at all times.

17. PROVIDER RESPONSIBILITIES / SUB AGREEMENTS. The Provider is solely responsible for fulfillment of this Agreement with the Department. The Provider assumes responsibility for all services offered and products to be delivered whether or not the Provider is the manufacturer or producer of said services.

(a) Sub-agreements.

i. All sub-agreements must contain the assurances enumerated in Sections 10, 11, and 12 of Rider B and Sections 4, 5, 6, 7 of Rider D;

ii. All sub-agreements must be signed and delivered to the Department's Agreement Administrator within five (5) business days following the execution date of the sub-agreement.

(b) Relationship between Provider, Subcontractor and Department. The Provider shall be wholly responsible for performance of the entire agreement whether or not subcontractors are used. Any sub-agreement into which the Provider enters with respect to performance under this Agreement shall not relieve the Provider in any way of responsibility for performance of its duties. Further, the Department will consider the Provider to be the sole point of contact with regard to any matters related to this Agreement, including payment of any and all charges resulting from this Agreement. The Department shall bear no liability for paying the claims of any subcontractors, whether or not those claims are valid.

(c) Liability to Subcontractor. The requirement of prior approval of any sub-agreement under this Agreement shall not make the Department a party to any sub-agreement or create any right, claim or interest in the subcontractor or proposed subcontractor against the Department. The Provider agrees to defend (subject to the approval of the Attorney General) and indemnify and hold harmless the Department against any claim, loss, damage, or liability against the Department based upon the requirements of Rider B, Section 18.

18. RENEWALS. This Agreement may be renewed at the discretion of the Department.

19. NO RULE OF CONSTRUCTION. The parties acknowledge that this Agreement was initially prepared by the Department solely as a convenience and that all parties hereto, and their counsel, have read and fully negotiated all the language used in the Agreement. The parties acknowledge that, because all parties and their counsel participated in negotiating and drafting this Agreement, no rule of construction shall apply to this Agreement that construes ambiguous or unclear language in favor of or against any party because such party drafted this Agreement.

20. CONFLICT OF INTEREST. The Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Provider further covenants that in the performance of this Agreement, no person having any such known interests shall be employed. (See also Rider B, #11 and #12.)

Rider E – Program Requirements

The following are additional OES program requirements:

1. **Services to AMHI Consent Decree Class Members.** The Provider agrees to serve class members of the AMHI Consent Decree who are eligible for the services purchased through this agreement. The Provider further agrees to collect data and maintain client records, and to comply with all applicable provisions of the AMHI Consent Decree.
2. **Independent Housing/Assisted Living Subagreements.** The amount paid to subcontractors for services supported in part or wholly by OES funds will not exceed the rates paid by OES or MaineCare for comparable in-home services. Information about rates can be obtained from OES.
3. **HIPAA Business Associate Agreement**

____Applicable; refer to HIPAA Business Associate Agreement further on in this Rider.

__X__ Not applicable for this agreement
5. **AOA Title III Compliance Requirements** .

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. ***State Agency***
 - a. State Agencies may use any amount of Title III-B (supportive services) funding necessary to conduct an effective ombudsman program (42 USC 3024 (d)(1)(B)).
 - b. Grant funds may be used for State plan administration, including State Plan preparation, evaluation of activities carried out under the Plan, the collection of data and the conduct of analyses related to the need for services, dissemination of information, short-term training, and demonstration projects (42 USC 3028 (a)).
 - c. No supportive services, nutrition services, or in-home services may be provided directly by the State Agency unless the State Agency determines that direct provision of services is necessary to ensure an adequate supply of services, where such services are related to the agency's administrative functions, or where such services of comparable quality can be provided more economically by the State Agency (42 USC 3027(a)(8)(A)).
2. ***Area Agency***
Supportive Services and Senior Centers and Nutrition Services
 - a. Funds may be used for plan administration, operation of an advisory council, activities related to advocacy, planning, information sharing, and other activities leading to development or enhancement within the designated service area(s) of comprehensive and coordinated community-based systems of service delivery to older persons (45 CFR section 1321.53).

- b. If approved by the State Agency, an Area Agency may use service funds for program development and coordination activities (42 USC 3024 (d)(1)(D); 45 CFR section 1321.17(f)(14)(i)).
- c. No supportive services, nutrition services, or in-home services may be provided directly by an Area Agency except if, in the judgment of the State Agency, direct provision of services is necessary to ensure an adequate supply of services, where such services are related to the agency's administrative functions, or where such services of comparable quality can be provided more economically by the agency (42 USC 3027(a)(10)).

NSIP – Recipient agencies may use the cash received in lieu of commodities only to purchase U. S. agricultural commodities and other food for their nutrition projects (42 USC 3030a(d)(2)).

3. **Service Providers**

Supportive Services and Senior Centers and Nutrition Services

- a. Funds may be used to assist in the operation of multi-purpose senior centers and to meet all or part of the costs of compensating professional and technical personnel required for center operation (42 USC 3030d (b)(2)).
- b. Funds may be used for nutrition services and supportive services consistent with the terms of the agreement between the Area Agency and the service provider (42 USC 3026 (a)(1), 3030d(a), and 3030e).
- c. Funds may be used for services associated with access to supportive services for in-home services, and for legal assistance (42 USC 3026 (a)(2)).
- d. Nutrition services may be provided to older individuals' spouses, who may not be eligible for these services in their own right, on the same basis as they are provided to older individuals, and may be made available to handicapped or disabled individuals who are less than 60 years old but who reside in housing facilities occupied primarily by older individuals at which congregate nutrition services are provided (42 USC 3030g-21(2)(I)).
- e. In accordance with procedures established by the Area Agencies, nutrition project administrators may offer meals to individuals providing volunteer services during the meal hours and to individuals with disabilities who reside at home with and accompany eligible individuals (42 USC 3030g-21(2)(H)).
- f. Funds may be used for provision of home-delivered meals to older individuals (42 USC 3030f).
- g. Funds may be used to acquire (in fee simple or by lease for 10 years or more), alter, or renovate existing facilities or to construct new facilities to serve as multi-purpose senior centers for not less than 10 years after acquisition, or 20 years after completion of construction, unless waived by the Assistant Secretary for Aging (42 USC 3030b).

NSIP – Cash received in lieu of commodities may be used only to purchase U. S. agricultural commodities and other food for their nutrition projects (42 USC 3030a(d)(2)).

E. Eligibility

- 1. Eligibility for Individuals – Not Applicable**
- 2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**
- 3. Eligibility for Subrecipients**

Service providers may include profit-making organizations except that providers of case management services must be public or non-profit agencies (42 USC 3026(a)(8)(C)).

G. Matching, Level of Effort, Earmarking

1. Matching

a. State

(1) States must contribute from State or local sources at least 25 percent of the cost of State Plan administration as their matching share. This may include cash or in-kind contributions by the State or third parties (42 USC 3028 (a)(1) and 42 USC 3029 (b); 45 CFR section 1321.47).

(2) All services, whether provided by the State Agency, an Area Agency or other service provider (including any ombudsman services provided under the authority of 42 USC 3024 (d)(1)(D)) must be funded with a non-Federal match of at least 15 percent. This percentage must be met on a statewide basis. Funds for ombudsman services provided under the authority of 42 USC 3024 (d)(1)(B) are not required to be matched (42 USC 3024 (d)(1)(D); 45 CFR section 1321.47).

b. State and Area Agencies

Area Agencies, in the aggregate, must contribute at least 25 percent of the costs of administration of area plans (42 USC 3024 (d)(1)(A); 45 CFR section 1321.47).

(1) *State* – Since this match is computed based on the aggregate of all Area Agencies in the State, the auditor's testing of the amount of this match is performed at the State Agency.

(2) *Area Agencies* – The auditor's testing of the allowability of the matching (e.g., from an allowable source and in compliance with the administrative requirements and allowable costs/cost principles requirements) should be performed at the Area Agencies.

2.1 Level of Effort – Maintenance of Effort

State – The State Agency must spend for both services and administration at least the average amount of State funds it spent under the State plan for these activities for the three previous fiscal years. If the State Agency spends less than this amount, the Assistant Secretary for Aging reduces the State's allotments for supportive and nutrition services under this part by a percentage equal to the percentage by which the State reduced its expenditures (42 USC 3029 (c); 45 CFR section 1321.49). See III. L.1, "Reporting - Financial Reporting" for the reporting requirement regarding maintenance of effort.

2.2 Level of Effort – Supplement Not Supplant – Not Applicable

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3. Earmarking

a. State

- (1) Overall expenditures for administration are limited to the greater of five percent (or \$300,000 or \$500,000 depending on the aggregate amount appropriated or a lesser amount for the U.S. territories) of the overall allotment to a State under Title III unless a waiver is granted by the Assistant Secretary on Aging (42 USC 3028 (b)(1), (2), and (3)).
- (2) After a State determines the amount to be applied to State plan administration under 42 USC 3028 (b), the State may:
 - (a) Make up to (and including) 10 percent of that amount available for the administration of Area Plans. The State may either calculate the 10 percent based on the total allotment from AoA or on the amount remaining after deducting the amount to be applied to State Plan administration (42 USC 3024(d)(1)(A)); and
 - (b) Use any amounts available to the State for State plan administration which the State determines are not needed for that purpose to supplement the amount available for administration of Area Plans (42 USC 3028(a)(2)).
- (3) Any State which has been designated as a single planning and service area may elect to be subject to the State Plan administration limit (five percent) or the Area Plan administration (10 percent) limit (42 USC 3028(a)(3)).
- (4) A State may transfer:
 - (a) Up to 40 percent of a State's separate allotments for congregate and home-delivered nutrition services between those two allotments without AoA approval (42 USC 3028 (b)).
 - (b) Not more than 30 percent between programs under Part B and Part C (Parts C1 and/or C2) for use as the State considers appropriate (42 USC 3028(b)).
 - (c) An additional 10 percent may be transferred between C1 and C2 with an AoA waiver (42 USC 3028(b)).
 - (d) A waiver may be requested to transfer an amount which is above the allowable 30 percent between Parts B and C (42 USC 3030c-3(b)(4)).

A State Agency may not delegate to an Area Agency or any other entity the authority to make such transfers (42 USC 3028(b)(6)).
- (5) The State agency will not fund program development and coordinated activities as a cost of supportive services for the administration of area plans until it has first spent 10 percent of the total of its combined allotments under this program on the administration of area plans (45 CFR section 1321.17(f)(14)).

- b. **Area Agency**
As provided in agreements with the State Agency, Area Agencies earmark portions of their allotment. The typical earmarks are:
 - (1) A maximum amount or percentage for program development and coordination activities by that agency (42 USC 3024(d)(1)(D); 45 CFR section 1321.17(f)(14)(i)).
 - (2) A minimum amount or percentage for services related to access, in-home services, and legal assistance (42 USC 3026(a)(2) and (b)).

H. Period of Availability of Federal Funds

Funds are made available to the State annually and must be obligated by the State by the end of the Federal fiscal year in which they were awarded. The State has two years to liquidate all obligations for its administration of the State Plan and for awards to the Area Agencies consistent with its intrastate allocation formula. Therefore, in any given year, multiple years of funding are being used to provide services statewide. Whenever the Assistant Secretary on Aging determines that any amount allotted to a State under Parts B or C for a fiscal year will not be used to carry out the purpose for which the allotment was made, the funds may be reallocated to one or more other States. Any amount made available to a State as the result of a reallocation shall be regarded as part of the State's allotment for the same fiscal year in which the funds were appropriated, but shall remain available for obligation by the State until the end of the succeeding fiscal year (42 USC 3024 (b)).

J. Program Income

- 1. Service providers are required to provide an opportunity to individuals being served under all Part B and C services program to make voluntary contributions for services received. These voluntary contributions are to be added to the amounts made available by the State or Area Agency and must be used to expand the service from which they are collected (42 USC 3030c-2(b)).
- 2. Cost-sharing fees may be collected from Title III-B services except information and assistance, outreach, benefits counseling, or case management services. Cost sharing is not allowed for Title III-C services or Title VII Elder Rights Services (Ombudsman, legal services, elder abuse prevention or other consumer protection services) (42 USC 3030c-2(a)(2)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report*, and *AoA Supplemental Form* (OMB No. 0985-0004) – Applicable (required semi-annually)
- b. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- d. SF-272, *Federal Cash Transactions Report* – Payments under this program are made by the HHS Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PSC-272 series of reports.

2. Performance Reporting – Not Applicable

3. **Special Reporting – Not Applicable**

M. **Subrecipient Monitoring**

1. *State Agency*

The State Agency is required to develop policies governing all aspects of programs operated under the State Plan and to monitor their implementation, including assessing performance for quality and effectiveness and specifying data system requirements to collect necessary and appropriate data (45 CFR sections 1321.11 and 1321.17(f)(9)).

2. *Area Agencies*

Area Agencies are required to oversee the activities of service providers with respect to provision of services, reporting, voluntary contributions, and coordination of services (45 CFR section 1321.65).

N. **Special Tests and Provisions**

1. **Distribution of Cash**

Compliance Requirement – States are required to promptly and equitably distribute cash received in lieu of commodities to recipients of grants or contracts under OAA Title C1 and C2 (42 USC 3030a(d)(2)).

Audit Objective – Determine whether States are distributing cash promptly and equitably.

Suggested Audit Procedures

- a. Review the State's procedures for handling cash received in lieu of commodities to determine whether there is a documented process for distributing cash, including established time frames.
- b. Review a sample of transactions during the audit period in which the State received cash in lieu of commodities and determine whether the State complied with its established process, including time frames.

IV. **OTHER INFORMATION**

The AoA NSIP program replaces the NSIP administered by USDA under CFDA 10.570. Responsibility was transferred to AoA as of October 10, 2002. The program may include both cash payments and commodities in lieu of cash. Assistance in the form of commodities in lieu of cash is considered Federal awards expended in accordance with the OMB Circular A-133, §____.105, definition of Federal financial assistance and should be valued in accordance with §____.205(g). Therefore, both cash expenditures for the purchase of food and the value of commodities received from the State Distribution Agencies should be (1) used when determining Type A programs and (2) included in the Schedule of Expenditures of Federal Awards in accordance with §____

HIPAA Business Associate Agreement

Definitions

Business Associate	"Business Associate" shall refer to <u>agency signing this contract</u> .
Covered Entity	"Covered Entity" shall refer to the Bureau of Elder and Adult Services, Maine Department of Health & Human Services.
Individual	"Individual" shall have the same meaning as the term "individual" in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
Privacy Rule	"Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
Protected Health Information	"Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR § 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
Required By Law	"Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.501.
Secretary	"Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

Obligations and Activities of the Business Associate

The Business Associate agrees to:

- A. Not use or disclose Protected Health Information other than as permitted or required by the Agreement or as Required By Law.
- B. Use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- C. Mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate in violation of the requirements of this Agreement.
- D. Report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which the Business Associate becomes aware.
- E. Ensure that any agent, including a subcontractor, to whom the Business Associate provides Protected Health Information agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to information received from, or created or received by, the Business Associate on behalf of the Covered Entity.

- F. Provide access, at the request of the Covered Entity, and in a timely manner, to Protected Health Information to the Covered Entity or, as directed by the Covered Entity, to an Individual in order to meet the requirements under 45 CFR § 164.524.
- G. Make any amendment(s) to Protected Health Information that the Covered Entity directs or agrees to pursuant to 45 CFR § at the request of the Covered Entity or an Individual, and in a timely manner.
- H. Make available in a timely manner to the Covered Entity, or to the Secretary, internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of, the Covered Entity.
- I. Document such disclosures of Protected Health Information and related information in accordance with 45 CFR § 164.528.
- J. Provide the Covered Entity or an Individual, in a timely manner, information collected in accordance with Rider A of this Agreement, to permit the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
- K. Use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).

Permitted Uses and Disclosures by the Business Associate

Except as otherwise limited in this Business Associate Agreement, the Business Associate may use or disclose Protected Health Information, pursuant to this Agreement, for the following purposes: to perform functions, activities, or services for, or on behalf of, the Covered Entity; or as required by law. Any such use or disclosure may not violate the Privacy Rule if done by the Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

Obligations of the Covered Entity

The Covered Entity shall:

- A. Notify the Business Associate of any limitation(s) in its Notice of Privacy Practices of the Covered Entity in accordance with 45 CFR § 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information.
- B. Notify the Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information.
- C. Notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Information.
- D. Not require the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

Term and Termination.

- A. Term. The Term of this Agreement shall be effective as of the date specified in the Agreement to Purchase Services BP-54, and shall terminate when all of the Protected Health Information provided by the Covered Entity to the Business Associate, or created or received by the Business Associate on behalf of the Covered Entity, is destroyed or

returned to the Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions of this Section. The confidentiality provisions of this Agreement shall survive indefinitely, even beyond the termination of this Agreement, or as required by law.

- B. **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Agreement by the Business Associate, the Covered Entity shall either:
1. Provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity may terminate this Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity;
 2. Immediately terminate this Agreement if the Business Associate has breached a material term of this Agreement and cure is not possible; or
 3. If neither termination nor cure are feasible, the Covered Entity shall report the violation to the Secretary.
- C. **Effect of Termination.**
1. Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, the Business Associate shall return or destroy all Protected Health Information received from the Covered Entity, or created or received by the Business Associate on behalf of the Covered Entity. This provision shall also apply to Protected Health Information that is in the possession of subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the Protected Health Information.
 2. In the event that the Business Associate determines that returning or destroying the Protected Health Information is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. The Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such Protected Health Information.

Miscellaneous

- A. **Regulatory References.** A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- B. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Covered Entity to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and its implementing regulations.
- C. **Survival.** The respective rights and obligations of the Business Associate under this Agreement shall survive the termination of this Agreement.
- D. **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit the Covered Entity to comply with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and its implementing regulations.
- E. **Invalid provision.** If any provision of this Agreement is found to be invalid or unenforceable, the invalidity or unenforceability shall not affect any other provision of this Agreement.

STATE OF MAINE HEALTH AND HUMAN SERVICES		AGENCY NAME:		Southern Maine Agency on Aging American Recovery and Reinvestment Act of 2009 (ARRA)			
REVENUE SUMMARY		PROGRAM NAME:		7/1/09			
		AGREEMENT START DATE:		6/30/10			
		AGREEMENT END DATE:		OES-09-075RA			
		AGREEMENT # DHHS:					
LINE	COLUMN 1	COLUMN 2	COLUMN 3		COLUMN 4	COLUMN 5	COLUMN 6
		TOTAL PROGRAMS (this agreement)	SERVICE:	Nutrition	SERVICE:		SERVICE:
			PROGRAM:	ARRA	PROGRAM:		PROGRAM:
1	REVENUE SOURCES						
2	TO BE COST SHARED (List by Donor or Source (Add rows as needed))						
3	AGREEMENT FEDERAL REVENUE						
4	FEDERAL DHHS AGREEMENT FUNDS	132,259		132,259			
5							
6	AGREEMENT STATE REVENUE						
7	STATE DHHS AGREEMENT FUNDS-FHM						
8	STATE DHHS AGREEMENT FUNDS-GF						
9							
10	UNRESTRICTED COUNTY/MUNICIPAL REVENUE						
11							
12	PRIVATE CLIENT FEES						
14							
15	UNRESTRICTED REVENUE (Not for specific use by Donor or funds committed to budget by Agency)						
16							
17							
18	TOTAL COST SHARED REVENUE	132,259		132,259	0		0
19							
20	NON COST SHARED REVENUE (Add rows as needed)*						
21	MAINECARE						
22	IN-KIND - Volunteer Time	23,340		23,340			
23	PROGRAM FEES						
24							
25							
26							
27							
28							
29							
30							
31							
32							
33	TOTAL NON COST SHARED REVENUE	23,340		23,340	0		0
34							
35	TOTAL REVENUE (Lines 28 + 37)	155,599		155,599	0		0
36							
37	TOTAL AGENCY-WIDE REVENUE			5,246,346			

* If adding rows, please make sure cells containing formulas are copied into rows added

STATE OF MAINE HEALTH AND HUMAN SERVICES EXPENSE SUMMARY		AGENCY NAME:		Southern Maine Agency on Aging			
		PROGRAM NAME:		American Recovery and Reinvestment Act of 2009 (ARRA)			
		AGREEMENT START DATE:		7/1/09			
		AGREEMENT END DATE:		6/30/10			
		AGREEMENT # DHHS:		OES-09-075RA			
LINE	COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	
1		TOTAL PROGRAMS (this agreement)	SERVICE: Nutrition	SERVICE:	SERVICE:	SERVICE:	
2			ARRA	PROGRAM:	PROGRAM:	PROGRAM:	
3	PERSONNEL EXPENSES						
4	SALARIES/WAGES	19,875	19,875				
5	FRINGE BENEFITS	1,520	1,520				
6	IN-KIND						
7	TOTAL PERSONNEL EXPENSES	21,395	21,395	0	0	0	
8	EQUIPMENT PURCHASES						
9	SUB RECIPIENT AWARDS						
10	ALL OTHER EXPENSES						
11	OCCUPANCY - DEPRECIATION						
12	OCCUPANCY - INTEREST						
13	OCCUPANCY - RENT						
14	UTILITIES/HEAT						
15	TELEPHONE						
16	MAINTENANCE/MINOR REPAIRS						
17	BONDING/INSURANCE						
18	EQUIPMENT RENTAL/LEASE						
19	MATERIALS/SUPPLIES						
20	DEPRECIATION (Non-occupancy)						
21	FOOD	103,764	103,764				
22	CLIENT-RELATED TRAVEL						
23	OTHER TRAVEL						
24	CONSULTANTS - DIRECT SERVICE						
25	CONSULTANTS - OTHER	1,800	1,800				
26	INDEPENDENT PUBLIC ACCOUNTANTS						
27	TECHNOLOGY SERVICES/SOFTWARE						
28	IN-KIND - Volunteer Time	23,340	23,340				
29	MISCELLANEOUS	5,300	5,300				
30	INDIRECT ALLOCATED- G&A						
31	TOTAL ALL OTHER (Lines 11 through 30)	134,204	134,204	0	0	0	
32	TOTAL EXPENSES (Lines 7, 8, 9, 31)	155,599	155,599	0	0	0	
33	TOTAL AGENCY-WIDE EXPENSES	5,246,346					

STATE OF MAINE HEALTH AND HUMAN SERVICES IN-KIND RESOURCE DONATION	AGENCY NAME:	Southern Maine Agency on Aging
	PROGRAM NAME:	American Recovery and Reinvestment Act of 2009 (ARRA)
	AGREEMENT START DATE:	7/1/09
	AGREEMENT END DATE:	6/30/10
AGREEMENT # DHHS:		OES-09-075RA

23,340	Of In-Kind (describe): Volunteer Service time in Meal program
Shall be furnished by: Volunteers Explanation (how was value determined): 2,180 volunteer hours valued at \$10.71.	

Shall be used as matching funds for (check applicable): ☐ FVPG ☐ Other (specify)	☐ SSBG/SPSS/CCSF ☐ CVAP
---	---

\$ Shall be furnished by: Explanation (how was value determined):	Of In-Kind (describe):
--	------------------------

Shall be used as matching funds for (check applicable): ☐ FVPG ☐ Other (specify)	☐ SSBG/SPSS/CCSF ☐ CVAP
---	---

\$ Shall be furnished by: Explanation (how was value determined):	Of In-Kind (describe):
--	------------------------

Shall be used as matching funds for (check applicable): ☐ FVPG ☐ Other (specify)	☐ SSBG/SPSS/CCSF ☐ CVAP
---	---

**STATE OF MAINE
HEALTH AND
HUMAN SERVICES**

AGENCY NAME:
PROGRAM NAME:
AGREEMENT START DATE:
AGREEMENT END DATE:
AGREEMENT # DHHS:

Southern Maine Agency on Aging
American Recovery and Reinvestment Act of 2009 (ARRA)
7/1/09
6/30/10
OES-09-075RA

PERSONNEL EXPENSES

(Direct Costs Only, use form 4a for staff in Allocated Indirect Cost)

LINE	COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6
PERSONNEL EXPENSES						
(Direct Costs Only, use form 4a for staff in Allocated Indirect Cost)						
	POSITION TITLE	CREDENTIAL (eg. MHRT II, LCSW)	AVG. HOURLY RATE	TOTAL SALARY FOR AGREEMENT PERIOD	TOTAL # ANNUAL HOURS SPENT ON PROGRAM	TOTAL PROGRAM SALARY FOR AGREEMENT PERIOD
1	Direct Care/Clinical Staff:					
2	Special Projects Coordinator		19.11	19,874	1,040	19,874
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14	Total FTE 0.5				1,040	19,874
15	Administrative Staff (non Indirect Allocated)					
16						
17						
18						
19						
20	Total FTE				0	0
21	TOTAL				1,040	19,874
COLUMN 7						
TOTAL FRINGE BENEFITS						
22	TYPE OF BENEFIT (SPECIFY)	EXPENSE	% SALARY	ITEM	SUMMARY	
23	FICA TAX	1,520	7.65%	TOTAL SALARY	19,874	
24	UNEMPLOYMENT INSURANCE		0.00%	TOTAL FRINGE	1,520	
25	WORKERS' COMPENSATION		0.00%			
26	HEALTH/DENTAL		0.00%	TOTAL (same as Form 2, line 7, for each Program)	21,395	
27	PENSION		0.00%	Remarks:		
28	OTHER		0.00%			
29	TOTAL FRINGE BENEFITS	1,520	7.65%			

COLUMN 9

31	CONSULTANTS- DIRECT SERVICE					
32	Service	Consultant Name	Credential	Hourly Rate	# Annual Hours	Total Cost
33						0
34						0
35						0
36	TOTAL					0

STATE OF MAINE		AGENCY NAME:		Southern Maine Agency on Aging	
HEALTH AND HUMAN SERVICES		PROGRAM NAME:		American Recovery and Reinvestment Act of 2009 (ARRA)	
		AGREEMENT START DATE:		7/1/09	
		AGREEMENT END DATE:		6/30/10	
INDIRECT ALLOCATION (G&A) SUMMARY		AGREEMENT # DHHS:		OES-09-075RA	
LINE	COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	
1	CATEGORY OF EXPENSE	TOTAL AGENCY G&A BUDGET	G&A ALLOCATED TO AGREEMENT PROGRAMS	G&A ALLOCATED TO OTHER PROGRAMS	
2	TOTAL PERSONNEL EXPENSE				0
3	EQUIPMENT PURCHASES				0
4	ALL OTHER				0
5	TOTAL AGENCY INDIRECT	0	0		0
6	PERCENT	#DIV/0!	#DIV/0!		#DIV/0!
7	NARRATIVE EXPLANATION: Describe basis of allocation used to allocate general and administrative expenses to individual programs, including base units used, e.g., program expenditures, personnel, square footage etc. If multiple bases are used, for different items, please describe each.				

	STATE OF MAINE		AGENCY NAME:		Southern Maine Agency on Aging	
	HEALTH AND	PROGRAM NAME:	American Recovery and Reinvestment Act of 2009 (ARRA)			
	HUMAN SERVICES	AGREEMENT START DATE:	7/1/09			
		AGREEMENT END DATE:	6/30/10			
	INDIRECT PERSONNEL SUMMARY	AGREEMENT # DHHS:	OES-09-075RA			
LINE	COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4		
	PERSONNEL EXPENSES					
	(Indirect Allocated Costs Only- General and Administrative Staff)					
	POSITION TITLE	AVE. HOURLY RATE	TOTAL SALARY FOR AGREEMENT PERIOD	TOTAL SALARY ALLOCATED TO TOTAL AGREEMENT		
1	Indirect Allocated (G&A) Staff:					
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21	TOTAL		0	0		
	COLUMN 5		COLUMN 6			
	TOTAL FRINGE BENEFITS		SUMMARY			
22	TYPE OF BENEFIT (SPECIFY)	% SALARY	EXPENSE	ITEM		
23	FICA TAX			TOTAL SALARY	0	
24	UNEMPLOYMENT INSURANCE			TOTAL FRINGE	0	
25	WORKERS' COMPENSATION			TOTAL	0	
26	HEALTH/DENTAL			Remarks:		
27	PENSION					
28	OTHER					
29	TOTAL FRINGE BENEFITS	0.00%	0			

STATE OF MAINE HEALTH AND HUMAN SERVICES EXPENSE DETAILS	AGENCY NAME:	Southern Maine Agency on Aging	
	PROGRAM NAME:	American Recovery and Reinvestment Act of 2009 (ARRA)	
	AGREEMENT START DATE:	7/1/09	
	AGREEMENT END DATE:	6/30/10	
EXPENSE DETAILS	AGREEMENT # DHHS:	OES-09-075RA	

COLUMN 1	COLUMN 2	COLUMN 3
NAME OF LINE ITEM	AMOUNT (from Form 2)	DETAIL
EQUIPMENT PURCHASES	0	
SUB-RECIPIENT AWARDS	0	
OCCUPANCY - DEPRECIATION	0	
OCCUPANCY - INTEREST	0	
OCCUPANCY - RENT	0	
UTILITIES/HEAT	0	
TELEPHONE	0	
MAINTENANCE/MINOR REPAIRS	0	
BONDING/INSURANCE	0	
EQUIPMENT RENTAL/LEASE	0	
MATERIALS/SUPPLIES	0	
DEPRECIATION (Non-occupancy)	0	
FOOD	103,764	12,306 Congregate meals @ \$5.46, 6,116 HDM @ \$5.98
CLIENT-RELATED TRAVEL	0	
OTHER TRAVEL	0	
CONSULTANTS - OTHER	1,800	Licensed Dietician to review menus for new congregare partner locations
INDEPENDENT PUBLIC ACCOUNTANTS	0	
TECHNOLOGY SERVICES/SOFTWARE	0	
MISCELLANEOUS	5,300	10,000 congregare dining brochures and coupons designed & printed. 8 to 12 newspaper ads.

RIDER F-1
AGREEMENT SETTLEMENT FORM (ASF)
PRO-FORMA - BUDGET
(see instructions and MAAP page 10-11)

Community Agency: Southern Maine Agency on Aging
Fiscal Year End: June 30
Funding Department: OES
Agreement Number DHHS: OES-09-075RA
Agreement Period: 7/1/2009-6/30/2010
Agreement Amount: 132,259.00
Program/Service: Recovery Act Funds for Meal Program

Part I -- AGREEMENT TOTALS

		<u>REVENUE</u>	<u>EXPENSE</u>	<u>BALANCE</u>
1.)	PER AGREEMENT BUDGET	155,599.00	155,599.00	0.00
AGREEMENT ADJUSTMENTS				
2.)			0.00	0.00
3.)			0.00	0.00
4.)	In-Kind	23,340.00	23,340.00	0.00
5.)			0.00	0.00
6.)			0.00	0.00
7.)			0.00	0.00
8.)			0.00	0.00
9.)	TOTAL ADJUSTMENTS	<u>23,340.00</u>	<u>23,340.00</u>	<u>0.00</u>
10.)	TOTALS AVAILABLE FOR COST SHARING	<u>\$ 132,259</u>	<u>\$ 132,259</u>	<u>\$ -</u>

Part II -- AGREEMENT COST SHARING

		<u>% OF BUDGET</u>	<u>REVENUE</u>	<u>EXPENSE</u>	<u>BALANCE</u>
11.)	Agreement # (state funds)	0%		0.00	0.00
12.)	Agreement # (federal funds)	100%	132,259.00	132,259.00	0.00
13.)	Agreement # dedicated funds)	0%	0.00	0.00	0.00
14.)	All Other	0%	0.00	0.00	0.00
15.)	TOTALS	<u>100.00%</u>	<u>\$ 132,259</u>	<u>\$ 132,259</u>	<u>\$ -</u>

Notes to Adjustments:

RIDER F-2 AGREEMENT COMPLIANCE FORM

This section identifies compliance requirements that must be considered in audits of agreements between the Department and a Community Agency. Below is a summary of required compliance tests as well as sections within the agreement award relevant to such testing. Failure to comply with any of these areas could lead to material deficiencies.

Review the **Federal** compliance requirements specific to the following CFDA identifiers:

CFDA # _____ CFDA # _____ CFDA # _____

OMB A-133 Compliance Supplement located at www.whitehouse.gov/omb/circulars/a133_compliance/08/08toc.html

and review all the State compliance requirements listed below that apply to Federal Funds.

 X Review the **State** compliance requirements in applicable areas specified below:

<u> X </u>	1.) INTERNAL CONTROL	
<u> X </u>	2.) STANDARD ADMINISTRATIVE PRACTICES	
	<u> A </u> OMB A-110/Common Rule	<u> B </u> Department Additions
	General	
	Pre-award Requirements	
	Financial and Program Management	Standards for Bonding
	Property Standards	Program Budget
	Procurement Standards	
	Reports and Records	
	Termination and Enforcement	
	After the Award Requirements	
<u> X </u>	3.) ACTIVITIES ALLOWED OR UNALLOWED	<u> Rider A & D </u>
<u> X </u>	4.) ALLOWABLE COSTS/COST PRINCIPLES	
	<u> X </u> OMB A-122	<u> OMB A-21 </u>
	<u> OMB A-87 </u>	
<u> X </u>	5.) CASH MANAGEMENT	<u> Rider D </u>
<u> X </u>	6.) ELIGIBILITY	<u> Rider E </u>
<u> X </u>	7.) EQUIPMENT AND REAL PROPERTY MANAGEMENT	<u> </u>
<u> X </u>	8.) MATCHING, LEVEL OF EFFORT, EARMARKING	<u> </u>
<u> X </u>	9.) PERIOD OF AVAILABILITY OF FUNDS	<u> </u>
<u> X </u>	10.) PROCUREMENT AND SUSPENSION AND DEBARMENT	<u> Rider D </u>
<u> </u>	11.) PROGRAM INCOME	<u> </u>
<u> X </u>	12.) REPORTING	<u> Rider A </u>
<u> X </u>	13.) SUBRECIPIENT MONITORING	<u> Rider B & D </u>
<u> X </u>	14.) SPECIAL TESTS AND PROVISIONS	<u> </u>
<u> X </u>	15.) AGREEMENT SETTLEMENT:	
	(Check all that are applicable)	
	COST SHARING	<u> X </u>
	FEE FOR SERVICE	<u> </u>
	UNIT COST	<u> </u>
	LINE ITEM EXPENSE	<u> </u>
	OTHER (specify):	<u> </u>

Agreement to Purchase Services

RIDER G
IDENTIFICATION OF COUNTRY
IN WHICH CONTRACTED WORK WILL BE PERFORMED

Please identify the country in which the services purchased through this contract will be performed:



United States. Please identify state: MAINE



Other. Please identify country: _____

Notification of Changes to the Information

The Provider agrees to notify the Division of Purchases of any changes to the information provided above.

Agreement to Purchase Services

RIDER I MAINE STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES ASSURANCE OF COMPLIANCE

ASSURANCE OF COMPLIANCE WITH TITLES VI OF THE CIVIL RIGHTS ACT OF 1964, SECTION 504 OF THE REHABILITATION ACT OF 1973, TITLE IX OF THE EDUCATION AMENDMENTS OF 1972, THE AGE DISCRIMINATION ACT OF 1975, THE CODE OF FAIR PRACTICES AND AFFIRMATIVE ACTION AND STATE OF MAINE EXECUTIVE ORDER 17/FY 04/05.

The Provider/Contractor provides this assurance in consideration of and for the purpose of obtaining Federal/State grants, loans, contracts, property, discounts or other Federal/State financial assistance from the U.S./State Departments of Health and Human Services.

By signing this contract, Rider I Assurance of Compliance is by agreement fully incorporated into the contract.

THE PROVIDER/CONTRACTOR HEREBY AGREES THAT IT WILL COMPLY WITH:

1. Titles VI of the Civil Rights Act of 1964 (Pub. L. 88-352), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Service (45 C.F.R. Part 80), to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States, shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the Provider/Contractor receives Federal/State financial assistance from the Department. Specifically, providers of client services shall develop clear, written communication plans, provide and document training in order to ensure that staff can communicate meaningfully with applicants/clients and/or family members who are limited English proficient (LEP); determine the primary language of applicants/clients and/or family members, and ensure that bi-lingual workers or qualified interpreters will be provided at no cost to the applicant/client.

2. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 84), to the end that, in accordance with Section 504 of that Act and the Regulation, no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap be excluded from participation in, be denied the benefits of, or subjected to discrimination under any program or activity for which the Provider/Contractor receives Federal/State financial assistance from the Department. Specifically, providers shall develop clear, written communication plans, provide and document training in order to ensure that staff can communicate meaningfully with applicants/clients and/or family members who are deaf, hard or hearing, late deafened, speech impaired and/or nonverbal. The Provider will provide visible or tactile alarms for safety and privacy, telecommunications device for the deaf (TTY), amplified phone or fax machine, and train staff in the use of adaptive equipment. The Provider shall obtain the services of a qualified, licensed sign language interpreter or other adaptive service such as CART or C-Print at no expense to the applicant/client or family member.

3. Title IX of the Educational Amendments of 1972 (Pub. L. 92-318), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 86), to the end that, in accordance with Title IX and the Regulation, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of /or be otherwise subjected to discrimination under any education program or activity for which the Provider/Contractor receives Federal/State financial assistance from the Department.

4. The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 91), to the end that, in accordance with the Act and the Regulation, no person in the United States shall, on the basis of age, be denied the benefits of, be excluded from participation in or be subjected to discrimination under any program or activity for which the Provider/Contractor receives Federal/State financial assistance from the Department.

5. The Code of Fair Practices and Affirmative Action, 5 M.R.S.A. § 781 *et. seq.*, to the end that, in accordance with the Code of Fair Practices and Affirmative Action, no state or state related agency contractor, subcontractor, or labor union or representative of the workers with which the contractor has an agreement will discriminate because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability while providing any function or service to the public, in enforcing any regulation, or in any education, counseling, vocational guidance, apprenticeship and on the job training programs, unless based upon a bona fide occupational qualification. During the performance of this contract, the Provider/Contractor agrees as follows:

- A. That it will not discriminate against any employee or applicant for employment because of race, color, religious creed, sex, national origin, ancestry, age physical or mental disability. Such action shall include, but not be limited to the following: Employment, upgrading, demotions, transfers, recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- B. The Provider/Contractor will, in all solicitations or advertisements for employees place by or on behalf of the Provider/Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability.
- C. The Provider/Contractor will send to each labor union or representative of the workers with which it has a collective or bargaining agreement, or other contract or understanding, whereby he is furnished with labor for the performances of his contract, a notice, to be provided by the contracting department or agency, advising the said labor union or workers' representative of the contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The Provider/Contractor will cause the foregoing provisions to be inserted in all contracts for any work

Agreement to Purchase Services

- E. covered by this agreement so that such provisions will be binding upon each subcontractor.
Provider/Contractors and subcontractors with contracts in excess of \$50,000 will also pursue in good faith affirmative action programs.

6. State of Maine Executive Order 17 FY 04/05 which provides that all contractors entering into contracts for services to be provided to or on behalf of the State of Maine not discriminate against any employee or applicant for employment because of that employee's or applicant's sexual orientation. Solicitations or advertisements for employment by the contractor or subcontractor shall state that all qualified applicants will receive consideration for employment without regard to sexual orientation. Contractor will notify each labor union or workers' representative of the contractor's obligations under State of Maine Executive Order 17 FY 04/05 and post such notice in conspicuous places available to employees and applicants for employment. The contractor will cause the requirement of State of Maine Executive Order 17 FY 04/05 to be inserted in all contracts for work covered by a State contract for services such that the requirements will be binding on any and all subcontractors. The Provider further stipulates that services will be provided in a culturally sensitive and age appropriate manner.

The Provider/Contractor agrees that compliance with this assurance constitutes a condition of continued receipt of Federal/State financial assistance, and that it is binding upon the Provider/Contractor, its successors, transferees and assignees for the period during which such assistance is provided. The Provider/Contractor also agrees that the Department may withhold financial assistance to any recipient found to be in violation of the Maine Human Rights Act, 5 M.R.S.A. § 4551 *et. seq.* or the Federal Civil Rights Act, 42 U.S.C. § 1981 *et. seq.* in accordance with 5 M.R.S.A. § 783. If any real property or structure thereon is provided or improved with the aid of Federal/State financial assistance extended to the Provider/Contractor by the Department, this assurance shall obligate the Provider/Contractor, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal/State financial assistance is extended or for another purpose involving the provision of similar service or benefits. If any personal property is so provided, this assurance shall obligate the Provider/Contractor for the period during which it retains ownership or possession of the property. The Provider/Contractor further recognizes and agrees that the United States shall have the right to seek judicial enforcement of the assurance.

* Technical assistance and information relating to the requirements associated with sections 1 through 5 can be found at U.S. Health and Human Services Website: www.hhs.gov/ocr/pregrant/indexpg.html. Technical assistance and information regarding section 1 can also be found at the U.S. Equal Employment Opportunity Commission website: www.eeoc.gov. Technical assistance and information relating to the requirements associated with section 6 can be found at www.state.me.us/mhrc/laws.htm. For technical assistance and information relating to section 6 above, please refer to www.jan.wvu.edu/links/adalinks.html. Information relating to section 6 can be found at <http://janus.state.me.us/legis/statutes/search.asp>.