

Number of contract/requisition 30418 y3

Subject of Contract ADRC Marketing

Initial contract Yes  No

Amendment Yes  No

# CONTRACT/SUBAWARD CHECKLIST

(Initials are to be used by each staff person as the checklist is moved through the process.)

Date

Submitted by (Program Specialist/Coordinator) 3/30/16 [Signature] 3/30/16

Edited and returned by Administrator \_\_\_\_\_

Edits made and returned to Administrator \_\_\_\_\_

Approved by Administrator \_\_\_\_\_

Edited and returned By Director \_\_\_\_\_

Edits made and returned to Administrator \_\_\_\_\_

Approved by Administrator AB 3/30/16

Approved by Director \_\_\_\_\_

Edited and returned By CEO \_\_\_\_\_

Approved by CEO \_\_\_\_\_

## Summary of Contract (prepared by Program Specialist/Coordinator)

Please load the attached SIGNED subaward for payments.

\*This checklist is to be used for every contract/sub-grant processed through MLTC that either is loaded into NIS or is owned by DAS. No contract is to be presented to Director of MLTC or CEO of DHHS without verification that process has been completed.

**SUBGRANT AWARD****BETWEEN**

**THE NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF MEDICAID AND LONG-TERM CARE STATE UNIT ON AGING**

**AND**

**CITY OF LINCOLN dba AGING PARTNERS**

This grant is entered into by and between the Nebraska Department of Health and Human Services, **DIVISION OF MEDICAID AND LONG-TERM CARE STATE UNIT ON AGING** (hereinafter "DHHS"), and **CITY OF LINCOLN dba AGING PARTNERS** (hereinafter "Subrecipient").

**PURPOSE.** The purpose of this grant is: Provide marketing information state-wide about the Aging and Disability Resource Centers (ADRCs) in Nebraska.

**I. PERIOD OF PERFORMANCE AND TERMINATION**

- A. **TERM.** This award is in effect from April 1, 2016 the effective date through June 30, 2016, the completion date.
- B. **TERMINATION.** This grant may be terminated at any time upon mutual written consent or by either party for any reason upon submission of written notice to the other party at least Thirty (30) days prior to the effective date of termination. DHHS may also terminate this grant in accord with the provisions designated "FUNDING AVAILABILITY" and "BREACH OF GRANT." In the event either party terminates this grant, the Subrecipient shall provide to DHHS all work in progress, work completed, and materials provided by DHHS in connection with this grant immediately.

**II. AMOUNT OF GRANT**

- A. **TOTAL GRANT.** DHHS shall pay the Subrecipient a total amount, not to exceed \$65,000.00 (Sixty five thousand dollars) for the activities specified herein.
- B. **PAYMENT STRUCTURE.** Payment shall be structured as follows:
1. DHHS agrees to pay the Subrecipient actual, reasonable, and necessary expenses as billed up to the amount listed in Article II., Paragraph A. The budget is located in Attachment A. Cost reimbursable payments are to be made in general accordance with the categories and criteria as set forth in the agreement and the Budget. The Subrecipient shall submit monthly payment requests in accordance with the following billing requirements:

Requests for Funds (Form E) and the Monthly Financial (Form A) as referenced in attachment B, shall be submitted on a monthly basis to the attention of:

Renee Savidge  
State Unit on Aging  
Division of Medicaid & Long-Term Care  
Department of Health & Human Services  
P.O. Box 95026  
Lincoln, Nebraska 68509-5026  
DHHS.Aging@nebraska.gov

- C. BUDGET CHANGES. The Subrecipient is permitted to reassign funds from one line item to another line item within the approved budget. If funds are reassigned between line items, prior approval from DHHS is required for cumulative budget transfer requests for allowable costs, allocable to the grant exceeding five percent (5%) of the current total approved budget. Budget revision requests shall be submitted in writing to DHHS. DHHS will provide written notification of approval or disapproval of the request within thirty (30) days of its receipt.

### III. STATEMENT OF WORK

- A. The Subrecipient shall: Meet all requirements outlined in the attached RFGP and use the marketing plan developed through a contract with the Nebraska Association of Area Agencies on Aging in 2015. Marketing materials must address direct support, professional and family caregivers, promote self-sufficiency, and utilize person-centered and person-directed initiatives for aging populations and persons with disabilities. Develop comprehensive materials that are current, relevant and resonate with baby boomers in regard to the marketing plan. Develop a marketing plan that supports building community capacities in each of the service areas.

The primary purpose of the marketing deliverables is to develop and distribute quantifiable services or products completed by the subrecipient during the project. These may include but are not limited to:

1. Publication of marketing literature developed, presented and available for all AAAs to utilize. These will present each community as disabled-friendly, aging-friendly, a resource for older Nebraskans, and providing tools for success or best practices.
2. Design and produce marketing materials that highlight the resources and support available for caregivers, guardians, and families of elderly and persons with disabilities.
3. Develop and produce printed materials, including but not limited to: posters, brochures, book marks, business cards, door hangers, and other materials as needed.
4. Develop and produce audio visual materials as needed. Materials may include video, television, radio, or web based public service announcements.
5. Develop materials to be used in social media.

- B. DHHS shall: Monitor that services are provided in accordance with this agreement and contingent on availability of funding, reimburse the Subrecipient up to the total amount listed in Article II, Paragraph A for costs incurred in reference to this agreement.

### IV. GENERAL TERMS AND ASSURANCES

A. ACCESS TO RECORDS AND AUDIT RESPONSIBILITIES.

1. All Subrecipient books, records, and documents regardless of physical form, including data maintained in computer files or on magnetic, optical or other media, relating to work performed or monies received under this grant shall be subject to audit at any reasonable time upon the provision of reasonable notice by DHHS. Subrecipient shall maintain all records for three (3) years from the date of final payment, except records that fall under the provisions of the Health Insurance Portability and Accountability Act (HIPAA) shall be maintained for six (6) full years from the date of final payment. In addition to the foregoing retention periods, all records shall be maintained until all issues related to an audit, litigation or other action are resolved to the satisfaction of DHHS. The Subrecipient shall maintain its accounting records in accordance with generally accepted accounting principles. DHHS reserves and hereby exercises the right to require the Subrecipient to submit required financial reports on the accrual basis of accounting. If the Subrecipient's records are not normally kept on the accrual basis, the Subrecipient is not required to convert its accounting system but shall develop and submit in a timely manner such accrual information through an analysis of the documentation on hand (such as accounts payable).
2. The Subrecipient shall provide DHHS any and all written communications received by the Subrecipient from an auditor related to Subrecipient's internal control over financial

reporting requirements and communication with those charged with governance including those in compliance with or related to Statement of Auditing Standards (SAS) 112 *Communicating Internal Control related Matters Identified in an Audit* and SAS 114 *The Auditor's Communication with Those Charged With Governance*. The Subrecipient agrees to provide DHHS with a copy of all such written communications immediately upon receipt or instruct any auditor it employs to deliver copies of such written communications to DHHS at the same time copies are delivered to the Subrecipient, in which case the Subrecipient agrees to verify that DHHS has received a copy.

3. The subrecipient shall immediately commence follow-up action on findings arising from audits or other forms of review. Follow-up action includes responding to those conducting such examinations with clear, complete views concerning the accuracy and appropriateness of the findings. If the finding is accepted, corrective action, such as repaying disallowed costs, making financial adjustments, or taking other actions should proceed and be completed as rapidly as possible. If the subrecipient disagrees, it should provide an explanation and specific reasons that demonstrate that the finding is not valid.
  4. In addition to, and in no way in limitation of any obligation in this grant, the Subrecipient shall be liable for audit exceptions, and shall return to DHHS all payments made under this grant for which an exception has been taken or which has been disallowed because of such an exception, upon demand from DHHS.
- B. **AMENDMENT**. This grant may be modified only by written amendment executed by both parties. No alteration or variation of the terms and conditions of this grant shall be valid unless made in writing and signed by the parties.
- C. **ANTI-DISCRIMINATION**. The Subrecipient shall comply with all applicable local, state and federal statutes and regulations regarding civil rights and equal opportunity employment, including Title VI of the Civil Rights Act of 1964; the Rehabilitation Act of 1973, Public Law 93-112; the Americans with Disabilities Act of 1990, Public Law 101-336; and the Nebraska Fair Employment Practice Act, NEB. REV. STAT. §§ 48-1101 to 48-1125. Violation of said statutes and regulations will constitute a material breach of this grant. The Subrecipient shall insert this provision into all grants and subcontracts.
- D. **ASSIGNMENT**. The Subrecipient shall not assign or transfer any interest, rights, or duties under this grant to any person, firm, or corporation without prior written consent of DHHS. In the absence of such written consent, any assignment or attempt to assign shall constitute a breach of this grant.
- E. **ASSURANCE**. If DHHS, in good faith, has reason to believe that the Subrecipient does not intend to, is unable to, has refused to, or discontinues performing material obligations under this grant, DHHS may demand in writing that the Subrecipient give a written assurance of intent to perform. Failure by the Subrecipient to provide written assurance within the number of days specified in the demand may, at DHHS's option, be the basis for terminating this grant.
- F. **BREACH OF GRANT**. DHHS may immediately terminate this grant and agreement, in whole or in part, if the Subrecipient fails to perform its obligations under the grant in a timely and proper manner. DHHS may withhold payments and provide a written notice of default to the Subrecipient, allow the Subrecipient to correct a failure or breach of grant within a period of thirty (30) days or longer at DHHS's discretion considering the gravity and nature of the default. Said notice shall be delivered by Certified Mail, Return Receipt Requested or in person with proof of delivery. Allowing the Subrecipient time to correct a failure or breach of this grant does not waive DHHS's right to immediately terminate the grant for the same or

different grant breach which may occur at a different time. DHHS may, at its discretion, obtain any services required to complete this grant and hold the Subrecipient liable for any excess cost caused by Subrecipient's default. This provision shall not preclude the pursuit of other remedies for breach of grant as allowed by law.

- G. CONFIDENTIALITY. Any and all confidential or proprietary information gathered in the performance of this grant, either independently or through DHHS, shall be held in the strictest confidence and shall be released to no one other than DHHS without the prior written authorization of DHHS, provided that contrary grant provisions set forth herein shall be deemed to be authorized exceptions to this general confidentiality provision. This provision shall survive termination of this grant.
- H. CONFLICTS OF INTEREST. In the performance of this grant, the Subrecipient shall avoid all conflicts of interest and all appearances of conflicts of interest. The subrecipient shall not acquire an interest either directly or indirectly which will conflict in any manner or degree with performance and shall immediately notify DHHS in writing of any such instances encountered.
- I. DATA OWNERSHIP AND COPYRIGHT. DHHS shall own the rights in data resulting from this project or program. The Subrecipient may copyright any of the copyrightable material and may patent any of the patentable products produced in conjunction with the performance required under this grant without written consent from DHHS. DHHS hereby reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the copyrightable material for state government purposes. This provision shall survive termination of this grant.
- J. DEBARMENT, SUSPENSION OR DECLARED INELIGIBLE. The Subrecipient certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- K. DOCUMENTS INCORPORATED BY REFERENCE. All references in this grant to laws, rules, regulations, guidelines, directives, and attachments which set forth standards and procedures to be followed by the Subrecipient in discharging its obligations under this grant shall be deemed incorporated by reference and made a part of this grant with the same force and effect as if set forth in full text, herein.
- L. DRUG-FREE WORKPLACE. Subrecipient certifies that it maintains a drug-free workplace environment to ensure worker safety and workplace integrity. Subrecipient shall provide a copy of its drug-free workplace policy at any time upon request by DHHS.
- M. FORCE MAJEURE. Neither party shall be liable for any costs or damages resulting from its inability to perform any of its obligations under this grant due to a natural disaster, or other similar event outside the control and not the fault of the affected party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach of this grant. The party so affected shall immediately give notice to the other party of the Force Majeure Event. Upon such notice, all obligations of the affected party under this grant which are reasonably related to the Force Majeure Event shall be suspended, and the affected party shall do everything reasonably necessary to resume performance as soon as possible. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event and will not suspend performance requirements under this grant.
- N. FUNDING AVAILABILITY. DHHS may terminate the grant, in whole or in part, in the event funding is no longer available. Should funds not be appropriated, DHHS may terminate the

award with respect to those payments for the fiscal years for which such funds are not appropriated. DHHS shall give the Subrecipient written notice thirty (30) days prior to the effective date of any termination. The Subrecipient shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event, shall the Subrecipient be paid for a loss of anticipated profit.

- O. **GOVERNING LAW.** The award shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against DHHS or the State of Nebraska regarding this award shall be brought in Nebraska administrative or judicial forums as defined by Nebraska State law. The Subrecipient shall comply with all Nebraska statutory and regulatory law.
- P. **HOLD HARMLESS.**
1. The Subrecipient shall defend, indemnify, hold, and save harmless the State of Nebraska and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties") from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses ("the claims"), sustained or asserted against the State of Nebraska, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the Subrecipient, its employees, consultants, representatives, and agents, except to the extent such Subrecipient's liability is attenuated by any action of the State of Nebraska which directly and proximately contributed to the claims.
  2. DHHS's liability is limited to the extent provided by the Nebraska Tort Claims Act, the Nebraska Contract Claims Act, the Nebraska Miscellaneous Claims Act, and any other applicable provisions of law. DHHS does not assume liability for the action of its Subrecipients.
- Q. **INDEPENDENT ENTITY.** The Subrecipient is an Independent Entity and neither it nor any of its employees shall, for any purpose, be deemed employees of DHHS. The Subrecipient shall employ and direct such personnel, as it requires, to perform its obligations under this grant, exercise full authority over its personnel, and comply with all workers' compensation, employer's liability and other federal, state, county, and municipal laws, ordinances, rules and regulations required of an employer providing services as contemplated by this grant.
- R. **REIMBURSEMENT REQUEST.** Requests for payments submitted by the Subrecipient shall contain sufficient detail to support payment. Any terms and conditions included in the Subrecipient's request shall be deemed to be solely for the convenience of the parties.
- S. **INTEGRATION.** This written grant represents the entire agreement between the parties, and any prior or contemporaneous representations, promises, or statements by the parties, that are not incorporated herein, shall not serve to vary or contradict the terms set forth in this grant.
- T. **NEBRASKA NONRESIDENT INCOME TAX WITHHOLDING.** Subrecipient acknowledges that Nebraska law requires DHHS to withhold Nebraska income tax if payments for personal services are made in excess of six hundred dollars (\$600) to any Subrecipient who is not domiciled in Nebraska or has not maintained a permanent place of business or residence in Nebraska for a period of at least six months. This provision applies to: individuals; to a corporation, if 80% or more of the voting stock of the corporation is held by the shareholders who are performing personal services, and to a partnership or limited liability company, if 80%

or more of the capital interest or profits interest of the partnership or limited liability company is held by the partners or members who are performing personal services.

The parties agree, when applicable, to properly complete the Nebraska Department of Revenue Nebraska Withholding Certificate for Nonresident Individuals Form W-4NA or its successor. The form is available at:

[http://www.revenue.ne.gov/tax/current/f\\_w-4na.pdf](http://www.revenue.ne.gov/tax/current/f_w-4na.pdf) or  
[http://www.revenue.ne.gov/tax/current/fill-in/f\\_w-4na.pdf](http://www.revenue.ne.gov/tax/current/fill-in/f_w-4na.pdf)

- U. **NEBRASKA TECHNOLOGY ACCESS STANDARDS.** The Subrecipient shall review the Nebraska Technology Access Standards, found at <http://www.nitc.nebraska.gov/standards/> and ensure that products and/or services provided under the grant comply with the applicable standards. In the event such standards change during the Subrecipient's performance, the State may create an amendment to the grant to request that Subrecipient comply with the changed standard at a cost mutually acceptable to the parties.
- V. **NEW EMPLOYEE WORK ELIGIBILITY STATUS.** The Subrecipient shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Subrecipient is an individual or sole proprietorship, the following applies:

1. The Subrecipient must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at [www.das.state.ne.us](http://www.das.state.ne.us).
  2. If the Subrecipient indicates on such attestation form that he or she is a qualified alien, the Subrecipient agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the Subrecipient's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
  3. The Subrecipient understands and agrees that lawful presence in the United States is required and the Subrecipient may be disqualified or the grant terminated if such lawful presence cannot be verified as required by NEB. REV. STAT. § 4-108.
- W. **PUBLICATIONS.** Subrecipient shall acknowledge the project was supported by DHHS in all publications that result from work under this grant.
- X. **PROGRAMMATIC CHANGES.** The Subrecipient shall request in writing to DHHS for approval of programmatic changes. DHHS shall approve or disapprove in whole or in part in writing within thirty (30) days of receipt of such request.
- Y. **PROMPT PAYMENT.** Payment shall be made in conjunction with the State of Nebraska Prompt Payment Act, NEB. REV. STAT. §§ 81-2401 through 81-2408. Unless otherwise provided herein, payment shall be made by electronic means.

Automated Clearing House (ACH) Enrollment Form Requirements for Payment.

The Subrecipient shall complete and sign the State of Nebraska ACH Enrollment Form and obtain the necessary information and signatures from their financial institution. The completed

form must be submitted before payments to the Subrecipient can be made. Download ACH Form:

[http://www.das.state.ne.us/accounting/nis/address\\_book\\_info.htm](http://www.das.state.ne.us/accounting/nis/address_book_info.htm)

- Z. **PUBLIC COUNSEL.** In the event Subrecipient provides health and human services to individuals on behalf of DHHS under the terms of this award, Subrecipient shall submit to the jurisdiction of the Public Counsel under NEB. REV. STAT. §§ 81-8,240 through 81-8,254 with respect to the provision of services under this grant. This clause shall not apply to grants between DHHS and long-term care facilities subject to the jurisdiction of the state long-term care ombudsman pursuant to the Long-Term Care Ombudsman Act.
  
- AA. **RESEARCH.** The Subrecipient shall not engage in research utilizing the information obtained through the performance of this grant without the express written consent of DHHS. The term "research" shall mean the investigation, analysis, or review of information, other than aggregate statistical information, which is used for purposes unconnected with this grant.
  
- BB. **SEVERABILITY.** If any term or condition of this grant is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this grant did not contain the particular provision held to be invalid.
  
- CC. **SUBRECIPIENTS OR SUBCONTRACTORS.** The Subrecipient shall not grant or subcontract any portion of this award without prior written consent of DHHS. The Subrecipient shall ensure that all subcontractors and subrecipients comply with all requirements of this grant and applicable federal, state, county and municipal laws, ordinances, rules and regulations.
  
- DD. **TIME IS OF THE ESSENCE.** Time is of the essence in this grant. The acceptance of late performance with or without objection or reservation by DHHS shall not waive any rights of DHHS nor constitute a waiver of the requirement of timely performance of any obligations on the part of the Subrecipient remaining.

**NOTICES.** Notices shall be in writing and shall be effective upon receipt. Written notices, including all reports and other written communications required by this grant shall be sent to the following addresses:

**FOR DHHS:**

Renee Savidge  
NE Department of Health & Human Services  
PO Box 95026  
Lincoln, NE 68509-5026  
(402) 471-4737

**FOR SUBRECIPIENT:**

Randall Jones  
City of Lincoln dba Aging Partners  
1005 O Street  
Lincoln, NE 68508  
(402) 441-7070

**IN WITNESS THEREOF,** the parties have duly executed this grant hereto, and each party acknowledges the receipt of a duly executed copy of this grant with original signatures.

**FOR DHHS:**

  
Cynthia Brammeier  
Administrator  
State Unit on Aging  
Medicaid & Long-term Care  
Department of Health and Human Services

**FOR SUBRECIPIENT:**

  
Chris Beutler  
Mayor  
City of Lincoln

DATE: 3/30/16

DATE: 3-23-16