



Council on Aging of Southwestern Ohio | *Answers on Aging*

**REQUEST FOR PROPOSALS (RFP)
RFP: 002-18**

**MINORITY BUSINESS ENTERPRISE
PARTICIPATION IN THE OHIO
HOMECARE WAIVER CONTRACT**

**Council on Aging of Southwestern Ohio
175 Tri County Parkway
Cincinnati, Ohio 45246**

Proposal Due Date: 12:00 NOON EST, March 27, 2018

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Section One - General Information

**Council on Aging of Southwestern Ohio (COA)
175 Tri County Parkway
Cincinnati, Ohio 45246**

is accepting proposals from qualified Ohio MBE Certified Service Providers for the following Request For Proposal (RFP)

Request For Proposal Number	Proposal Name
002-18	Minority Business Enterprise Participation in the Ohio Homecare Waiver Contract
Important Dates	
RFP Release Date	March 13, 2018
Last Day to Submit Questions	March 19, 2018
Last Day for COA to Answer Questions Submitted	March 21, 2018
Proposal Due Date	March 27, 2018
Estimated Award Date	March 29, 2018
Executed Contract/ Start Date	April 3, 2018
Length of Contract	5 years

Proposal Delivery

Each submission must have one (1) signed original, four (4) copies. COA would appreciate a copy of your bid on a flash drive however the flash drive submission is not a bid requirement. All bids must be received no later than **NOON Eastern Standard Time on March 27, 2018**. Bids may be submitted by hand, via delivery service, or via United States mail. The bidder is responsible for ensuring the bid arrives at COA's office prior to the submission deadline. Bids must be sent to:

Council on Aging of Southwestern Ohio
Attn: Manager of Provider and Procurement Services
175 Tri County Parkway
Cincinnati, Ohio 45246

No late Bids will be accepted. COA is not responsible for and will not open or consider Bids arriving after the deadline because of missed delivery, improper address, insufficient postage, accident or any other cause. **COA's building is open from 8:00 A.M. to 4:30 P.M., Monday through Friday.**

All questions regarding the RFP must be put in writing and submitted to:
provider_services@help4seniors.org

Only questions submitted in writing to this e-mail address will receive a response. All questions must be submitted by **NOON Eastern Standard Time on March 19, 2018**. Responses will be posted on COA's website at <http://www.help4seniors.org/service-providers/application-and-rfps/>.

Background Information

Council on Aging of Southwestern Ohio (COA) was established in Cincinnati in 1970 and was incorporated as a nonprofit agency in December 1971. In 1974, COA was designated by the Ohio Commission of Aging, now the Ohio Department of Aging (ODA), as the Area Agency on Aging for Butler, Clermont, Clinton, Hamilton and Warren counties. These five counties comprise Planning and Service Area Number 1 (referred to as AAA-1) in the State of Ohio.

The goal of this RFP is to attract the highest quality MBE Certified Provider(s) for the lowest cost who can meet the demand for services.

Determination of Responsibility. COA may review the highest-ranking Offerors or its key team members to ensure that the Offeror is responsible. The Contract may not be awarded to an Offeror that is determined not to be responsible. COA's determination of an Offeror's responsibility may include the following factors: the experience of the Offeror and its key team members; past conduct and past performance on previous contracts; ability to execute this contract properly; and management skill. COA will make such determination of responsibility based on the Offeror's Proposal, reference evaluations, and any other information COA requests or determines to be relevant.

If the organization meets the RFP requirements, the organization is then required to provide evidence of compliance with the contract and readiness to meet all contractual requirements from the Ohio Department of Medicaid. An organization meeting all requirements may then be awarded an Agreement/Contract to provide the service.

Please note:

- COA shall award contract(s) based on the review and evaluation of proposals.
- This is a competitive bid process and not all Bidders will be awarded contracts. A contract in the past does not guarantee a contract in response to this RFP.

Integrity of the Procurement Process

During the procurement process, providers are permitted to have communication regarding this RFP with only the provider services team. All communication shall be in written form. Acceptable contact with the provider services team includes email, facsimile, or other forms of written communication. Providers are strictly prohibited from having contact with Elected Officials, Boards or others who may have decision making authority regarding the funding for this program. A Provider that demonstrates the behaviors listed below at any time during the procurement process will be disqualified from submitting a proposal for the resulting service.

The list includes, but is not limited to, the following examples:

- Hiring a representative to lobby on your company's or another company's behalf
- Third party communications
- Direct communication
- Telephone calls
- Emails
- Facsimiles
- Personal visits
- Mail

Section Two: Service Specification/Scope of Work

MINORITY BUSINESS ENTERPRISE PARTICIPATION IN THE OHIO HOMECARE WAIVER CONTRACT

OBJECTIVE

The objective of this Request for Proposal (RFP) is to solicit proposals from Ohio MBE certified service providers to provide services for individuals eligible for the Ohio Home Care Waiver and Specialized Recovery Management Programs.

SCOPE OF WORK

This Section of the RFP document outlines the scope of work to be completed by Provider to Ohio Home Waiver (OHCW) and Specialized Recovery Management Program (SRSP) individuals upon referral from the Council on Aging (COA). All work assigned to provider must be completed in accordance with the rules in Ohio Administrative Code and Ohio Department of Medicaid Ohio Home Care Waiver Case Management and Specialized Recovery Service Program Recovery Management Guides as outlined in the Request for Proposal issued by Ohio Department of Medicaid #CSP900919 in Supplement Two and Three (State's RFP). Where there is disagreement among these documents, the Ohio Administrative Code and Ohio Department of Medicaid Case Management Guide in the Request for Proposal or subsequent updates to the Medicaid Case Management and Recovery Management Guides take precedence.

Provider must be able to complete the following as assigned by COA in accordance to all rules associated with the Ohio Home Care Waiver (OHCW) and Specialized Recovery Management Program (SRSP).

OHIO HOME CARE WAIVER:

Complete all case management functions as outlined Ohio Administrative Code and Ohio Department of Medicaid Ohio Home Care Waiver Case Management Guide in accordance to the Request for Proposal issued by Ohio Department of Medicaid #CSP900919 in Supplement Two (State's RFP).

Successful bidders will be paid on a per member per month basis (PMPM).

SPECIALIZED RECOVERY MANAGEMENT PROGRAM:

Complete all recovery management functions as outlined in Ohio Administrative Code and Ohio Department of Medicaid Specialized Recovery Service Program Recovery Management Guide in accordance to the Request for Proposal issued by Ohio Department of Medicaid #CSP900919 in Supplement Three (States RFP).

Successful bidders will be paid on a per member per month basis (PMPM), and a 15 minute increment rate for recovery services. The 15 minute billable unit includes care management activities including assessment, event based visits and telephone calls with client and providers involved with their care. Driving to and from visits is not billable time.

STAFFING REQUIREMENTS:

1. A staffing plan with a contingency plan that shows the Offeror has the ability to add more staff if needed, including its ability to provide qualified replacement staff.
2. Evidence that Offeror has demonstrated that all Ohio Home Care Waiver case managers are or will be required to be either licensed registered nurses (RN) or licensed social workers (LSW, LISW) with at least one paid year experience in home and community based services.
3. The Offeror's personnel profile summaries demonstrate that all clinical supervisors are or will be required to be either licensed RNs or licensed social workers or licensed independent social workers (LSW, LISW) with at least five paid years clinical experience in home and community-based services and a minimum of one year supervisory experience.
4. The description of Offeror's plan for Ohio Home Care Waiver case manager-to-individual ratio and how that ratio will be maintained.
5. The Offeror's personnel profile summaries demonstrate that one (1) key staff member has at least two years' experience with quality improvement systems.
6. The Offeror's personnel profile summaries demonstrate that one (1) key staff member has at least two years' experience in accounting or financial analysis.
7. Evidence that Offeror has demonstrated that all program management staff have at least a bachelor's degree in a business or health-related field and at least five years program management or program analysis experience.
8. The Offeror's organizational structure has an identified Data Analysis Oversight Unit.
9. The Offeror's personnel profile summaries demonstrate that one (1) key staff member has at least five years of management experience in a home and community-based services or health related field.
10. The Offeror's organizational structure has demonstrated that (1) clinical supervisor has been assigned to each region
11. The Offeror's personnel profile summaries demonstrate that one (1) key program management staff member has a master's degree in a business or health-related field with at least eight (8) years of management experience.
12. The Offeror's personnel profile summary demonstrates that it has on staff or subcontracts with one (1) person/organization who can complete accurate job specifications for home and vehicle modifications and who can prepare those specifications to bid. This person/organization must have a minimum of seven (7) years residential architectural or construction experience that includes accessible design and construction.

Section Three-Proposal Submission Checklist

A complete bid proposal includes the following:

- ☐ ***Section 1-1 signed original and 4 copies of the proposal (include flash drive if desired)***
- ☐ ***Section 4-Pricing Sheet. There are four (4) distinct regions in Ohio. Please refer to Region information and map. Bidders can bid on multiple regions.***
- ☐ ***Section 5-Proposal Evaluation:***
 - ☐ 1st Level Evaluation Criteria
 - ☐ 2nd Level Evaluation Criteria
 - ☐ 3rd Level Evaluation Criteria
 - ☐ 4th Level Evaluation Criteria
- ☐ ***Section 7 & 8 - Bid Forms and Documentation:***
 - ☐ Bidders State of Ohio MBE Certificate
 - ☐ Bidder's Certification of Payment of Personal Property Tax
 - ☐ Bidder's Identifying Information Form
 - ☐ Non-Collusion Affidavit
 - ☐ Debarment, Suspension, Ineligibility and Exclusion Certification
 - ☐ Letter of Intent (Sample shown with required elements in Section 8)
 - ☐ Certificate of Secretary of State (current and in good standing)
 - ☐ Current Bureau of Workers' Compensation Certificate
 - ☐ Certificate of Insurance evidencing the Bidder's liability meets the proper requirements
- ☐ ***Financial Analysis:***
 - ☐ Current year's budget
 - ☐ Audited financial statements (including notes) for the most recent year available
 - ☐ Unaudited financial statements for most recent year completed certified as being true and correct by the Chief Financial Officer.
 - ☐ Provide prior year's tax return (including schedules) and prior year's statement of revenue and expenses

- ☐ Prior year financial statements
- ☐ Most current interim financial statements. If financial statements are unavailable, provide:
 1. Prior year's tax return
 2. Excel spreadsheet of current year's Revenue and Expenses
- ☐ A/P Aging (classified in 30, 60, 90 days past due)
- ☐ Dated statement from a contracted CPA or an internal officer confirming that all federal, state, and local income and employment tax payments are current and paid through the most recent tax year

Section Four-Detailed Explanation of Costs

OHIO HOME CARE WAIVER:

Complete all case management functions as outlined Ohio Administrative Code and Ohio Department of Medicaid Ohio Home Care Waiver Case Management Guide in accordance to the Request for Proposal issued by Ohio Department of Medicaid #CSP900919 in Supplement Two (States RFP).

Successful bidders will be paid on a per member per month basis (PMPM).

OHIO HOME CARE WAIVER

Service Provided	Units
Ohio Home Care Waiver Case Management: all functions as outlined Ohio Administrative Code and Ohio Department of Medicaid Ohio Home Care Waiver Case Management Guide in accordance to the Request for Proposal issued by Ohio Department of Medicaid #CSP900919 in Supplement Two (State's RFP).	Per Member Per Month Rate

SPECIALIZED RECOVERY MANAGEMENT PROGRAM:

Complete all recovery management functions as outlined in Ohio Administrative Code and Ohio Department of Medicaid Specialized Recovery Service Program Recovery Management Guide in accordance to the Request for Proposal issued by Ohio Department of Medicaid #CSP900919 in Supplement Three (States RFP).

Successful bidders will be paid on a per member per month basis (PMPM), and a 15 minute increment rate for recovery services. The 15 minute billable unit which includes care management activities including assessment, event based visits and telephone calls with client and providers involved with their care. Driving to and from visits is not billable time.

SPECIALIZED RECOVERY MANAGEMENT PROGRAM

Service Provided	Units
SRSP Case Management: to include costs that are not covered in the Recovery Management Services cost. For example, travel to and from visits, unable to contact, reports, etc.	Per Member Per Month
Recovery Management Services: care management activities including assessment, event based visits and telephone calls with client and providers involved with their care.	15 minute Increment

COST SUMMARY FORM

CLEVELAND REGION

Service Provided	Rate
Ohio Home Care Waiver Case Management:	Per Member Per Month Rate \$_____
Case Management:	Per Member Per Month \$_____
Recovery Management Services:	15 minute Increment \$_____

MBE Capacity for this region: _____

CINCINNATI REGION

Service Provided	Rate
Ohio Home Care Waiver Case Management:	Per Member Per Month Rate \$_____
Case Management:	Per Member Per Month \$_____
Recovery Management Services:	15 minute Increment \$_____

MBE Capacity for this region: _____

COLUMBUS REGION

Service Provided	Rate
Ohio Home Care Waiver Case Management:	Per Member Per Month Rate \$_____
Case Management:	Per Member Per Month \$_____
Recovery Management Services:	15 minute Increment \$_____

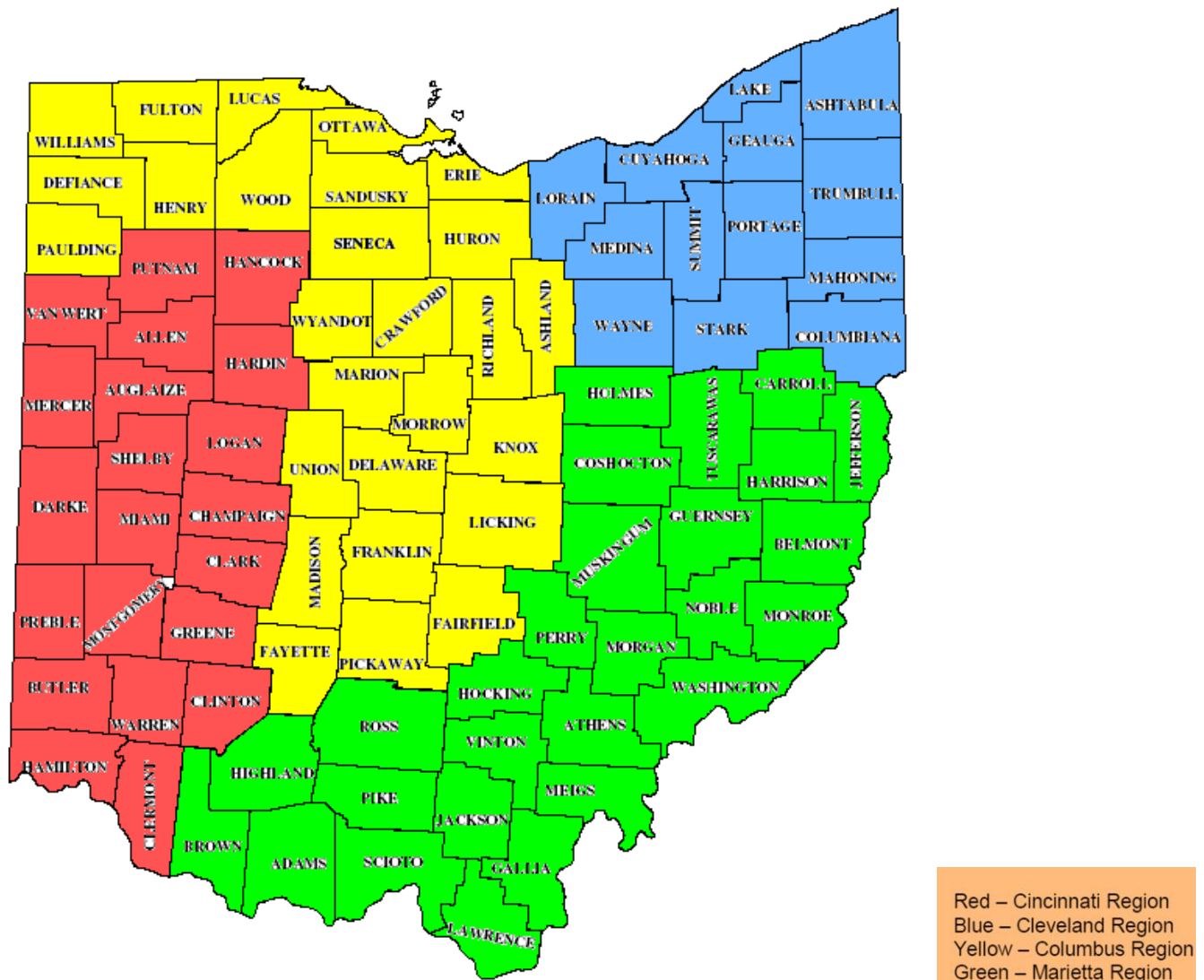
MBE Capacity for this region: _____

MARIETTA REGION

Service Provided	Rate
Ohio Home Care Waiver Case Management:	Per Member Per Month Rate \$_____
Case Management:	Per Member Per Month \$_____
Recovery Management Services:	15 minute Increment \$_____

MBE Capacity for this region: _____

OHIO MAP REGIONS



Section Five-Proposal Evaluation

COA shall award a Contract to the Bidders who submit the best Bid proposals based on evaluation of all Bids as determined by COA, in its sole discretion unless COA rejects all Bids.

COA reserves the right to reject any or all Bids, any part or parts of any Bid, and also the right to waive any informality in any Bid. Any Bid which is incomplete, conditional, obscure, or which contains additions not requested, or irregularities of any kind may be rejected.

COA reserves the right to make changes in program requirements, procedures, and terms after the Bid have been submitted, opened and reviewed in order to maximize delivery of services consistent with the objectives of the Minority Business Enterprise Participation in the Ohio Homecare Waiver Contract.

Bid proposals will be evaluated based on Bidder's financial stability, personnel and staffing, the organization's experience and capabilities in providing these services and pricing. There are four levels of review identified in the tables below. The first level evaluation determines if the proposal meets the requirements of the RFP and the organization is financially stable. Bidders not meeting the first level evaluation criteria may not be considered further. The second level evaluation is for personnel and staffing. The third level evaluation scores the Provider's organization and capabilities. The fourth level of evaluation is based on pricing. This may determine where specific contract awards are made with respect to multiple variables. The tables below provides criteria, descriptions, and scoring guidelines.

Selection

COA will form a review committee made up of representatives from various functional areas within the organization. This review committee will base its recommendation on the evaluation criteria set forth in this RFP. The committee will conduct an initial evaluation based on information in the company proposals.

Scoring of Submittal

The committee will base the evaluations on the following criteria:

Description	Evaluation Criteria
1 st Level Evaluation-Go/No Go Criteria	Submitted Documentation
2 nd Level Evaluation-Personnel and Staffing	0-20 points
3 rd Level Evaluation-The Organization and Capabilities	0-20 points
4 th Level Evaluation-Pricing	0-4 points

Minority Business Enterprise Participation in the Ohio Home Care Waiver Contract Contract Award Decision Matrix

1st Level Evaluation: GO/NO GO CRITERIA

These are YES/NO criteria. Any submission with 1 or more "NO" answers will be discussed with the review committee to determine if further evaluation will be afforded or granted.

1	Financial Health and Bid Requirement	<ul style="list-style-type: none"> • Current year's budget • Audited financial statements (including notes) for the most recent year available • Unaudited financial statements for most recent year completed certified as being true and correct by the Chief Financial Officer. • Provide prior year's tax return (including schedules) and prior year's statement of revenue and expenses. • Prior year financial statements. • Most current interim financial statements. • A/P Aging (classified in 30, 60, 90 days past due). • Dated statement from a contracted CPA or an internal officer confirming that all federal, state, and local income and employment tax payments are current and paid through the most recent tax year. If financial statements are unavailable, provide: • Prior year's tax return • Excel spreadsheet of current year's Revenue and Expenses
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2nd Level Evaluation: PERSONNEL and STAFFING

This level of the evaluation will be evaluated using the categories, as shown below.

Number	Category	Examples for Scoring	Points
1	Describe your organizations strategy to recruit, hire and retain staff that meet the staffing requirements outline in Section One.	<p>Example 1-proposal mentions recruiting outlets used; i.e. paper, websites, word of mouth etc...</p> <p>Example 2-proposal mentions online recruiting resources used by name and, methods of advertising for recruitment</p> <p>Example 3-proposal outlines specific recruiting strategies, new hire orientation, and ongoing training programs</p> <p>Example 4-proposal outlines specific recruiting strategies, frequency of advertising for recruitment and provides examples (screenshots) of recruiting marketing materials, provides new hire training and orientation schedules, provides continuous training schedules</p>	0-4

2	Describe your organizations process to insure managers and staff are knowledgeable with the social services system, programs and services	<p>Example 1-proposal mentions applicants/staff are interviewed/hired based experience in social services.</p> <p>Example 2-proposal mentions staff are given written materials explaining various social services programs.</p> <p>Example 3-proposal outlines methodology to confirm staff is knowledgeable with the social services system, programs and services, i.e. years of service in social work, previous work adults etc.</p> <p>Example 4-proposal includes social system informational materials provided to staff, new hire training/testing schedule specific to serving adults</p>	0-4
3	Describe the training provided to managers, staff and new hires	<p>Example 1-mentions new hiring training classes</p> <p>Example 2-mention new hires "shadow" care managers and staff with incoming clients</p> <p>Example 3-proposal outlines specific functions new hires are trained on and offers examples of training materials</p> <p>Example 4-proposal includes copies of training schedule, training materials, training checklist, continuous education opportunities etc...</p>	0-4
4	Describe the current, or planned, staff you have in place to deliver these services. Provide a contingency plan that demonstrates the ability to add more staff if needed, including your ability to provide qualified replacement staff.	<p>Example 1-mentions number of staff and number of supervisors</p> <p>Example 2-proposal includes supervisor/staff ratios, mentions supervisor/staff meetings</p> <p>Example 3-proposal includes ratios, supervisor/staff meeting schedules, supervisor monitoring of the work completed</p> <p>Example 4-proposal includes ratios, supervisor/staff meeting schedules, supervisor monitoring tools (checklists, audit forms, evaluation documents). Proposal demonstrates the ability to add staff and qualified replacement staff.</p>	0-4
5	Describe the training, monitoring and supervision for insuring event based visits and assessments are timely, accurate and reviewed by supervisor.	<p>Example 1- mentions training for event based assessments</p> <p>Example 2- mentions training and monitoring of event based visits</p> <p>Example 3-proposal includes training examples of training materials and monitoring tools to be used for event based assessments.</p> <p>Example 4- proposal includes detailed examples of training materials and monitoring tools to be utilized in the oversight of the event based assessments.</p>	0-4
Range of Points for 2nd Level Evaluation			0-20

3rd Level Evaluation: THE ORGANIZATION and CAPABILITIES

This level of the evaluation will be evaluated using the categories, as shown below.

Number	Category	Examples for Scoring	Points
1	Describe your organizations back up plan in the event a staff member is unavailable to deliver services	<p>Example 1-mentions substitute staff or care manager will provide services</p> <p>Example 2-proposal lists staff with back up for each worker</p> <p>Example 3-proposal includes written back up plan for same day coverage of service due to staff person unavailability</p> <p>Example 4-proposal includes written back up plan for same day service. Proposal includes sample schedule with back up person (or on call designee). Proposal identifies supervisor or managers role in rescheduling</p>	0-4
2	Describe your organizations previous history in providing a diverse and experienced workforce to meet the needs of all populations served by the Agency-administered HCBS programs.	<p>Example 1-mentions years of service providing services to clients.</p> <p>Example 2-proposal lists years of service with clients and experience of each staff person</p> <p>Example 3-proposal lists years of services to clients, and experience of each staff person. Proposal includes description of training the staff receives prior to delivery of services</p> <p>Example 4-proposal lists years of service experience for organization and individual staff. Proposal includes description of training program. Proposal includes evidence of successful HCBS service to clients, services delivered, including worker evaluations and/or client testimonials</p>	0-4
3	Describe your organizations monitoring processes and procedures for scheduling and monitoring performance.	<p>Example 1-mentions scheduling and monitoring is done by week, month</p> <p>Example 2-proposal states scheduling and monitoring is done centrally.</p> <p>Example 3-proposal states scheduling and monitoring is done centrally and distributed to workers. proposal gives examples (screenshots) of a typical schedule</p> <p>Example 4-proposal states scheduling and monitoring is done centrally, and distributed to workers. Examples of scheduling provided. Scheduling has systems in place to insure timely completion of service and backup plan in event of a unavailable staff person</p>	0-4

4	Describe your organizations policies and procedures to ensure communication between the agency's management and staff is occurring in reference to delivery of services. Your procedure should include how this communication is documented	<p>Example 1-mentions agency emails /calls between agency management and staff with updates</p> <p>Example 2-proposal cites policy and procedure for updating agency management on status of staff workload.</p> <p>Example 3-proposal cites policy and procedure for updating staff. Proposal includes written policy and procedure for communication from staff to agency management</p> <p>Example 4-proposal includes written policy and procedure for communication between care managers. Proposal includes examples of effective and timely communication between agency management and staff.</p>	0-4
5	Please provide client satisfaction letters and client references (with contact information) and professional letters of recommendation regarding your organizations delivery services to clients. If services will be new to your organization, please provide 3 client or professional references and 3 professional letters of recommendation.	<p>Example 1-proposal included 1-2 email/written client satisfaction letters. If new to service , 1 professional reference.</p> <p>Example 2-proposal includes 3 or more customer satisfaction emails/letters. New to services, 2-3 professional references.</p> <p>Example 3-proposal includes 3 or more client satisfaction emails/letters. Proposal includes 3 professional references.</p> <p>Example 4-proposal includes 3 or more client satisfaction emails or letters. Proposal includes 3 professional references. Proposal includes professional letters of recommendation.</p>	0-4
Range of Points for 3rd Level Evaluation			0-20

4th Level Evaluation: PRICING

Pricing will be evaluated based on Council on Aging's use of historical data for similar services and budget projections for these services.

COA reserves the right to: Negotiate Price, Award to multiple providers, and eliminate any term or condition that is not advantageous to COA, its clients or funders.

Number	Category		
1	Please submit detailed pricing for each service..		

Section Six-Additional Information Sheet

This optional section reserves a place for any pertinent information that was not specifically requested in the RFP but adds value for proposal evaluators.

Section Seven-Required Forms

BIDDER'S CERTIFICATION OF PAYMENT OF PERSONAL PROPERTY TAX

STATE OF _____ COUNTY _____

Before me, a Notary Public, in and for said County and State, personally appeared

_____ who, being duly sworn that he/she is the owner or an officer vested with the authority to commit said company _____ to contractual obligations and having been awarded a public contract let by competitive bid, and that by this statement, states that at this time neither he/she nor the corporation is charged with any delinquent personal property taxes on the general tax list of personal property of any county, or that attached hereto is a list of all delinquent personal property taxes charged against him/her of the corporation.

Name of Company _____

By _____
Signature

Sworn before me and signed in my presence the _____ day
of _____, 20____.

Notary Public Signature _____

This certification is in compliance with Section 5719.042 of the Ohio Revised Code which requires a certification of delinquent personal property tax by any successful bidder prior to the execution of the contract of a political subdivision; and in the event there are any due and unpaid delinquent taxes, a copy of this statement shall be transmitted to the County Treasurer within 30 days.

Bidder's Identifying Information Form for RFP: 002-18

I. IDENTIFYING INFORMATION

1. Legal Name of Bidder:		2. Federal Tax ID #:		
3. Doing Business As (d.b.a.) if applicable:				
4. Sites doing business in this service area:				
	Site #1	Site #2	Site #3	Site #4
Admin./Director:				
Street:				
City, State, & Zip:				
Phone #:				
FAX #:				
Email address:				
5. Ownership		<ul style="list-style-type: none"> • Private/Non-profit • Public/ Government • Publicly Traded 		Other _____
6. Legal Structure		<ul style="list-style-type: none"> • Partnership • Non-Profit Corporation 		<ul style="list-style-type: none"> • Corporation • Voluntary Corporation

II. STATEMENT OF UNDERSTANDING

<p>The bidder affirms that the information contained in their proposal is true to the best of their knowledge and belief. The bidder assures that it currently provides the services for which it is bidding. The bidder also affirms that the Request for Proposal has been read and understood and Provider will be in compliance with all requirements prior to contract execution.</p>	
Signature:	Title:
Printed Name:	Date:

NON-COLLUSION AFFIDAVIT

STATE OF _____)

COUNTY OF _____) SS.

_____being first duly sworn, deposes and

says that he/she is _____ of _____

(sole owner, partner, president, etc.)

the party making the foregoing proposal or bid; that such bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived, or agreed, directly or indirectly, with any bidder or person to put in a sham bid, or that such other person shall refrain from bidding and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price affiant or any other bidder, or to fix any overhead, profit or cost element of said bid price, or of that of any other bidder, or to secure any advantage against Council on Aging of Southwestern Ohio or any person or persons interested in the proposed contract; and that all statements contained in said proposal or bid are true; and further that such bidder has not, directly or indirectly submitted this bid, or contents thereof, or divulged information relative thereto any association or to any member or agent thereof.

AFFIANT

Sworn to and subscribed before me this _____ day of _____ 20__.

NOTARY PUBLIC

My commission expires: _____

DEBARMENT, SUSPENSION, INELIGIBILITY AND EXCLUSION CERTIFICATION

I certify that the entity identified below has not been debarred, suspended or otherwise found ineligible to receive funds by any organization of the executive branch of the federal government.

I further certify that should any notice of debarment, suspension, ineligibility or exclusion be received by the organization, Council on Aging of Southwestern Ohio will be notified immediately.

Entity: _____

Type name of person authorized to sign

Title

Signature

Date signed

Sample Letter of Intent

(Insert Date)

Suzanne Burke
Chief Executive Officer
Council on Aging of Southwest Ohio
175 Tri County Parkway
Cincinnati, OH 45246

Dear Mrs. Burke,

This letter of intent is to inform you that (Insert Business Name) has read and understands RFP 002-18: Minority Business Enterprise in the Ohio Home Care Waiver Contract and will comply with the requirements of the RFP should we receive a contract based on our proposal. We are committed to do the work as it is outlined in the RFP 002-18: Minority Business Enterprise in the Ohio Home Care Waiver Contract if we should be selected. (Insert Business Name) will maintain any permits, licenses, and certifications required to perform the work listed in RFP 002-18: Minority Business Enterprise in the Ohio Home Care Waiver Contract. If awarded a contract from our proposal (Insert Business Name) will provide staffing throughout the designated regions in Ohio to meet the needs of the Ohio Homecare Waiver recipients by providing initial contact support, assessment, and ongoing Case Management.

The person responsible for this contract should it be awarded, and legally able to sign all contractual obligations is:

- Name:
- Mailing Address:
- Phone Number:
- Fax Number:
- Email Address:

(Insert Business Name) is a:

- Legal Status:
- Tax Identification:
- Principle Business Address:

Please accept this letter of commitment for the Council on Aging of Southwest Ohio's RFP 002-18: Minority Business Enterprise in the Ohio Home Care Waiver Contract.

Sincerely,

Full Name
Title of Signatory

Section Eight-Required Documentation

Financial Status

The following items are requested to be submitted with the proposal:

- Current year's budget
- Audited financial statements (including notes) for the most recent year available
- Unaudited financial statements for most recent year completed certified as being true and correct by the Chief Financial Officer.
- Provide prior year's tax return (including schedules) and prior year's statement of revenue and expenses.
- Prior year financial statements.
- Most current interim financial statements.
- A/P Aging (classified in 30, 60, 90 days past due).
- Dated statement from a contracted CPA or an internal officer confirming that all federal, state, and local income and employment tax payments are current and paid through the most recent tax year. If financial statements are unavailable, provide:
- Prior year's tax return
- Excel spreadsheet of current year's Revenue and Expenses

Insurance and Workers' Compensation

The Bidder, at the Bidder's sole expense, if awarded a contract agrees to carry and maintain in full force and, with no interruption of coverage during the entire contract period:

1. The Bidder shall furnish COA with a Certificate of Insurance (Accord 24 Form) evidencing Bidder's liability insurance meets the proper requirements.
2. Commercial General Liability (CGL): written on an "occurrence" basis with no premises restrictions, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$5,000,000 per occurrence, \$10,000,000 aggregate. Defense costs shall be outside the policy limits.
3. Automobile Liability insurance covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with a limit no less than \$1,000,000 per accident for bodily injury and property damage. In the event employees are using their personally owned vehicles to perform services under this contract, Contractor's commercial auto must include hired and non-owned autos and the employees as insureds endorsement.
4. Workers' Compensation insurance as required by the State of Ohio, or the state in which the work will be performed, with Statutory Limits, and Employer's Liability Insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease. If Contractor is a sole proprietor, partnership or has no statutory requirement for workers' compensation, Contractor must provide a

letter stating that it is exempt and agreeing to hold State of Ohio harmless from loss or liability for such.

5. Professional Liability (Errors and Omissions, Malpractice) Insurance appropriate to the Contractor's profession, with limits not less than \$5,000,000 per occurrence or claim and shall include malpractice and sexual abuse and molestation. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall cover all applicable Contractor personnel who perform professional services related to this agreement.
6. Cyber liability (first and third party) with limits not less than \$2,000,000 per claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information (including paper documents), alteration of electronic information, extortion and network security. The coverage shall provide for breach response costs as well as regulatory fines and penalties and credit monitoring expenses with limits sufficient \$300,000 per individual, \$500,000 per occurrence.
7. A fidelity bond covering all individuals authorized by the Bidder to collect and/or disburse funds.
8. The Bidder shall have all of the above described insurance in full force and effect prior to the commencement of work. The insurance must be through a carrier licensed in the State of Ohio and reasonably acceptable to COA.
9. The insurance required under this RFP shall cover acts or omissions of both paid employees working for the Bidder.
10. The Bidder shall require the same amount of insurance from all utilized under this agreement.
11. Bidders must submit with their proposal a current Workers' Compensation Certificate with their bid.

Appendix A: State RFP CSP 900919

Further information on regulations and requirements of the program this contract will support can be found listed with RFP 002-18 here:

<http://www.help4seniors.org/service-providers/application-and-rfps/>

Appendix B: Emergency Preparedness Plan

Policy Statement

In an emergency, it is Council on Aging of Southwestern Ohio's (COA) responsibility to do what is necessary to sustain critical services to our clients. An "emergency" is defined as an event or series of events that place the operational capacity of COA at risk and/or significantly disrupts client services or places clients at risk. When such events occur, COA will coordinate efforts of the whole provider network in developing a response strategy and will also serve as the primary liaison to the local emergency management officials on behalf of the agency network. Providers are therefore expected to cooperate with these efforts and make their resources available to respond in a crisis.

COA's Continuity of Operations Plan (COOP) for responding to emergencies is activated at the discretion of the CEO and/or the Senior Leadership Team and may be activated if any of the following circumstances apply:

- Operational capacity has been or is likely to be impacted for more than 72 hours.
- If client services have been or are likely to be disrupted for more than 24 hours.
- If clients are or are likely to be at risk.
- If the magnitude of the event requires significant mobilization of resources.
- A weather alert or warning is issued by the National Weather Service and COA deems it necessary to prepare for weather which will significantly impact client services and business operations.

As emergencies do not always present themselves immediately and may develop over time, COA and the Provider must be able to recognize potential emergencies that place our operations or clients at risk. Clients may be at risk even if operations are not impacted, for example, a power outage during a heat wave.

Provider Requirements in an Emergency

The Provider agrees to the following:

1. The Provider will have a continuity of operations plan. At a minimum, that plan will include a plan for back-up operations should the provider's main business location become unavailable.
2. In the event of an emergency, COA will activate their Continuity of Operations Plan and notify providers that the COOP is activated and provide a single point of contact for the providers. Unless otherwise specified, COA's Procurement and Provider Relations Manager will serve as the primary point of contact and the Director of Business Operations will serve as the backup. Notification may be made by email, telephone, or website.
3. COA will take the lead in coordinating the response, unless COA's operations are significantly impacted by the emergency. The Provider will work with COA to

coordinate the response. The Providers agree to follow the instructions provided by COA and local EMA officials. The Provider will deploy available resources to aid in the response effort even if the activity is outside the normal course of operations. This may include:

- a. Not closing operations, and standing ready to step up operations and services;
 - b. Providing services beyond the provider's traditional territory;
 - c. Deploying the provider's resources in different ways to include the provider's facility(s), equipment, staff, and resources (e.g., using the senior center as emergency shelter/housing).
4. The provider will notify COA immediately if the Provider is unable to provide services for which they are contracted and/or provide emergency response support as requested.
5. Providers will report information to COA immediately if they believe a situation is developing that may severely impact their operational capacity or place clients at risk and/or upon request of COA or emergency management officials.
6. The provider will notify COA immediately if the Provider has information about changes to client needs during an emergency.
7. COA will work with providers to seek funding, as available from other sources which become available when a state of emergency is declared, in the event the providers incur unfunded expenses in the effort to maintain client safety, sustain critical services, and/or meet critical needs not covered, but required due to the crisis. Providers will therefore track their expenses during crisis situations where COA has activated the COOP.
8. The Provider will participate in readiness activities such as planning for emergencies, table top and other exercises, and providing contact and other organizational information.

Appendix C: Computer Hardware and System Requirements

Applicants are required to have high speed internet access (minimum DSL and/or cable modem) to enable connection via the internet to the COA provided computer software. The software currently utilized by COA for client registration and invoicing is Windows-based. Applicant's computer must run a Microsoft Windows, currently supported operating system with at least the minimum recommended RAM, disk space and processor for that operating system.

Access and Security Requirements

The computer software is installed on a Windows 2008/2012 server. Users connect via the internet to the software through a security firewall and Citrix client software to access the system. Any type of internet access via an ISP (Internet Service Provider) or direct connect should work. It is the Applicant's responsibility to ensure they can connect to the internet and get to the Council on Aging homepage (www.help4seniors.org). All transmission and handling of EPHI sensitive data must comply with all requirements set forth in the BAA. If the Applicant uses a firewall to access the internet, they will be required to open port 443 on their firewall for a Secure Socket Layer (SSL) connection. If proxy services are used to access the internet, limited services may be provided. COA technical staff will work with the Applicant to enable connectivity, if possible. Macintosh computers may not work correctly with the Citrix client software. Because of this COA can't provide support to Macintosh users.

Printers

The computer software **relies heavily on the ability for users to print notices and reports at their location, and expects a printer to be accessible to the PC used to connect to the computer system** (either connected directly to the PC or available as part of a local area network).

Due to lack of fonts and emulation modes, we can't support dot matrix printers. If you find you are having a problem printing in the software application, but the printer is working correctly for all other local/network applications at your site, please call the COA Computer Help Desk for assistance. If the Citrix software does not support your brand of printer, it will be necessary for the user to save the document as a .PDF file and print from their local workstation.

Applicant's contemplating purchasing a new printer should contact COA Computer Help Desk to assure it will function properly with Citrix.

Technical Support and Computer/Communication Problems

Personnel are available to handle the administrative needs of the computer system, such as assigning users and passwords. COA technical staff will provide technical support for Applicant's communications with the COA computer system only. We cannot provide support for the Applicant's computer equipment or connectivity to the internet except as it relates to connection to COA's software. Questions regarding these specifications or to obtain additional information regarding connectivity or problems please contact:

Computer Help Desk Phone:

(513) 345-3303

E-mail: helpdesk@help4seniors.org

COA Applicant Support/Computer Help Desk

COA provides support to Applicants as it relates to the COA software system. Please refer to the section(s) entitled "Connection or Other Fees" and "Additional Connection Fees" regarding specific charges. Read this document carefully to understand the coverage being provided.

Service(s) Provided

COA will provide technical support as it relates to connectivity with the COA computer system. Continue to contact the COA Billing and Contracting Department regarding billing and training issues.

Connection or Other Fees

If a Provider is new to the COA, they will be entitled to a single user account and connection. COA retains the right to implement computer hardware, software, or other user fees, at any time, upon providing advance notice to Applicant of its intent to do so.

Additional Connection Fees

Additional account connections and/or PCs can be loaded but are subject to additional charges at the Provider's expense. The charge is one-hundred and thirty dollars (\$130.00) for each additional account connection and/or PC. This fee will be used to purchase licenses and other equipment for the additional connections. If a Provider currently has a contract and is accepted as a Provider into another program, they are not entitled to an additional user account or connection. An administrative change at COA will allow the Provider to access the new program(s) through the existing original user account and connection.

Computer Help Desk Coverage and Service

COA will provide support Monday - Friday between the hours of 8:00 am - 4:30 pm EST. The **Computer Help Desk number is (513) 345-3303** and will be staffed during these hours. In the event your call goes to Voicemail, please leave a message and the call will be returned quickly, usually within the hour, but no longer than four (4) business hours. It is important to leave a message because the person administering the Computer Help Desk will be paged from the message. We strive to serve you with the best and most courteous customer service available. If, after contacting the Computer Help Desk, you feel a problem and concern hasn't been addressed to your satisfaction, please feel free to call Rick Ivey, COA IT Manager, at (513) 721-1025.

The Computer Help Desk number is (513) 345-3303.

In addition to the requirements above COA is requiring the winning bidder to be flexible, as COA is looking at new computer software systems. Providers must be able to enter notifications into the software systems COA selects. COA will provide additional information, as needed.

Appendix D: General Terms and Conditions

1. COA reserves the right to accept any proposal, in whole or in part, to waive any informality in any proposal, to negotiate further with one or more bidders regarding any terms of their proposals in order to achieve the best proposal for the benefit of the communities and residents COA serves as determined by COA in its sole discretion, and to reject any or all proposals, or any part or parts of any proposal, for any reason whatsoever.
2. Products and services to be purchased under this RFP are contingent upon COA funding and are in no way a guarantee to the Provider that everything described will be purchased. Any award of this contract does not give Provider the exclusive rights to products and services offered in this RFP including future offerings.
3. Bidders are responsible for compliance with all terms and conditions of this RFP and contract. As such, they are expected to read all documents issued completely.
4. COA is not liable for any errors or omissions in proposals and is not required to make corrections or amendments to errors identified in proposals.
5. COA reserves the right to remove any term or condition in any proposal that is not in the best interest of the communities or residents it serves.
6. Any resulting contract will include the RFP, any addenda issued, presentation material, if requested, and the Bidder's proposal as Exhibits. The documents shall be interpreted in the following order:
 - a. Contract
 - b. RFP and all addenda including presentation material if presentations are requested
 - c. Bidder's proposal
7. COA requires that all Providers be able to accept Electronic Funds Transfers (EFTs).
8. The laws of the State Of Ohio shall govern this contract and any subsequent purchases. Should there be any disagreement that requires Court action such action must take place in Hamilton County, Ohio in Cincinnati, Ohio.
9. Providers are required to be current on all employment, federal, state, and local income taxes payments related to provision of the services rendered or products delivered.
10. No bid may be withdrawn after it has been deposited with COA.
11. No oral statements of any person shall, in any manner or degree, modify or otherwise affect or alter the terms of this RFP, the Contract, or any other document comprising a part or attachment to this RFP.
12. COA reserves the right to adjust rates and establish ceilings.
13. All proposals become the property of COA and will not be returned to the Bidder. COA has the right to use all ideas contained in any proposal received at no cost to COA. Selection or rejection of a proposal will not affect this right.
14. Only information which is the nature of legitimate trade secrets or non-published financial data may be deemed proprietary. Any material within a proposal identified as such must be clearly marked "proprietary" and will be handled accordingly. Any proposal marked "proprietary" or "confidential" in its entirety may be rejected without further consideration. Any challenge to COA withholding this information as "proprietary" or "confidential"

requiring legal defense, the cost of such defense shall be borne by the Bidder.

15. COA is not responsible for any costs incurred by prospective Bidders. Costs associated with developing the proposal and any other expenses incurred in responding to this RFP are entirely the responsibility of the prospective Bidder and shall not be reimbursed by COA.
16. Bidders who are successful and awarded Contracts must agree to provide all documentation and assurances as outlined in the attached sample contract.
17. COA reserves the right to make changes in program requirements, procedures, and terms after the Bids have been submitted, opened and reviewed, in order to maximize delivery of services consistent with the objectives of the program.
18. COA reserves the right to begin transitioning clients to new providers three months prior to the end of this contract, if other providers are to be used after this contract expires.
19. Provider must carry adequate insurance coverage to meet the specifications of this RFP provided as part of Appendix B.
20. Provider must abide by the specifications set out in the Provider Requirements in an Emergency provided in Appendix A.
21. Provider must abide by the Elderly Service Program Service Provider Conditions of Participation provided in Appendix C
22. If awarded services, the selected Bidder will enter into a contract substantially similar to the sample contract shown in Appendix D.
23. In the event the Bidder is not awarded a contract and desires to appeal COA's decision, the Bidder must follow the instructions provided in Appendix E: Appeals Process of this RFP.

Appendix E: Sample Contract and Business Associate Agreement

MINORITY BUSINESS ENTERPRISE PARTICIPATION IN THE OHIO HOMECARE WAIVER PROGRAM AGREEMENT

between

The Council on Aging of Southwestern Ohio and
XXXXXXXXXX

Dates: XX-XX-XXXX

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SECTION 1 INTRODUCTION

THIS AGREEMENT ("Agreement") is entered into effective x x x x x x x by and between XXXXX, Inc., hereinafter referred to as the "Provider," and Council on Aging of Southwestern Ohio, hereinafter referred to as "COASM."

SECTION 2 GENERAL REQUIREMENTS FOR PROVIDERS

- A. Provider shall provide only the services attached to this Agreement and made a part hereof.
- B. Provider shall meet the current Conditions of Participation and the current Service Specifications, incorporated herein by reference.
- C. Provider represents that it is, and shall remain during the term hereof, a lawful business organization (for profit or not-for-profit) registered to do business in Ohio and in good standing under the laws of the State of Ohio.
- D. Provider acknowledges that communication with COA under this Agreement is necessary dependent on technology and computers. Therefore, the Provider agrees to cooperate fully with COA to implement any technology changes within a reasonable time, as determined by COA, after notified of change is required.
- E. Upon declaration of a disaster by the President, Governor, County Board of Commissioners ("County"), and/or COA, the Provider will cooperate with COA to assess the extent of the impact upon persons aged 60 and over and to coordinate the public and private resources in the field of aging in order to assist older disaster victims.

SECTION 3 REIMBURSEMENT FOR SERVICES PROVIDED

Provider will be paid the per member per month rate upon providing and invoicing the eligible units of service in accordance with the RFP.

- A. Provider will be reimbursed monthly via Electronic Funds Transfer (EFT), contingent upon the conditions of this Agreement being met. COA will issue reimbursement payment directly to the Provider. In the event Provider is paid for services not allowable under the terms of the Agreement, the amount of overpayment will be deducted from future reimbursements to Provider. If the amount of future reimbursement is insufficient to cover this obligation, or if final payment to Provider under this Agreement already has been made, then Provider shall refund the outstanding amount to COA within ten (10) business days after written receipt of notice to do so.
- B. COA shall have the right to refuse to process Provider claims when claims are not received within forty five (45) days after the end of the month in which Provider delivered the services. Extenuating circumstances that will cause a delay in billing should be promptly discussed with COA's Controller.
- C. COA will accept full responsibility and liability to collect and verify clients' financial liability as required by the Counties current elderly services

program general information and program guidelines, incorporated herein by reference.

SECTION 4 RECORDS AND DOCUMENTATION

Provider shall ensure that all necessary records are maintained to fully disclose the extent of services provided under this Agreement until the later of: a period of five (5) years from the expiration date of this Agreement or, if an audit is initiated within the five (5) year period, until the audit is completed and every exception resolved, or five (5) years after adjudication, and to provide immediate access to these records upon request of COA or its designee for audit purposes.

Further, Provider agrees to comply with all applicable Federal and State confidentiality laws, including without limitation, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and all implementing regulations there under, and all other regulations applicable to the program(s) under which this Agreement is funded, the Ohio Revised Code, and the regulations and administrative procedures of COA.

SECTION 5 INDEMNIFICATIONS

At all times during the term of the Agreement and to the extent permitted by law, Provider hereby agrees to indemnify COA, together with their respective trustees, commissioners, members, directors, officers, employees, assigns, and agents, and to hold COA harmless from and defend COA against any and all claims, demands, losses, liabilities, costs and expenses (including but not limited to reasonable attorneys' fees and court costs) arising in connection with or resulting from any breach or violation of this Agreement by Provider or negligent acts or omissions of Provider or anyone acting on Provider's behalf. This indemnification is not to be construed as a waiver of any and all defenses that Provider has against COA. Nothing herein shall limit the right of COA to participate in its own defense.

SECTION 6 INSPECTION AND MONITORING

- A. Provider shall maintain and, upon request, make available to COA or any of their duly authorized representatives independent books, records, payroll, accounting procedures and practices, and documents which sufficiently and properly document and reflect all direct and indirect costs of any nature expended in operating the program. Such records shall be subject at all reasonable times to inspection, review, and audit by COA or their designees, or any government agency having responsibility or control over expenditure of public funds for the purposes of making audit, examination, excerpts, and transcriptions, determining compliance with all applicable laws and regulations of any kind, and the terms and conditions of this Agreement.
- B. Provider will be monitored periodically by a representative(s) from COA, or a duly authorized representative, and Provider will permit access for such monitoring at all reasonable times. The monitoring will be to determine whether Provider's activities are being carried out as specified by the Agreement. Monitoring activities may include, but are not limited to, on-site observation, inspection, interviews of staff and clients, and review of Provider employee and fiscal records related to

the services provided under this Agreement and any other procedures, plans, documents and records which are directly pertinent to this Agreement. Specific monitoring methods and information to be requested may be discussed with Provider, although COA reserves the right to make final determination of the methods to be used and the information, pursuant to this Agreement, to be collected. Adequate measures will be taken by COA to insure that records of a confidential nature will not be compromised. If, in the judgment of COA, Provider is found to be in violation of this section or unable to carry out its provisions, COA, at its option, may suspend or terminate this Agreement,

- C. Provider agrees to accept responsibility for receiving, responding to, and/or complying with any audit exceptions noted in the course of any audit in connection with this Agreement. Such responsibility shall include, but not be limited to, the following actions with respect to any such exception:

1. Provider shall repay COA the full amount of any funds received for services not covered by this Agreement.
2. Provider shall repay to COA the full amount of any funds received as a result of any duplicate or erroneous billings, deceptive claims for reimbursement, or falsification of information provided to COA.

For purposes of this paragraph, Section VI C 2, “deceptive” means knowingly deceiving another, or causing another to be deceived, by fake or misleading representation, by withholding information, by preventing another from acquiring information, or by any other act, conduct, or omission which creates, confirms or perpetuates a fake impression in another, including a fake impression as to law, value, state of mind, or other objective or subjective fact.

SECTION 7 APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, REGULATIONS AND ESTABLISHED GUIDELINES

- A. Provider shall conform to the requirements of all applicable federal, state and local laws, regulations, and established guidelines of COA and those incorporated by reference herein, including, but not limited to the following, as all may be amended from time to time:
1. Scope of service provided by the State of Ohio
 2. Civil Rights Act of 1964, as Amended;
 3. Section 504 of the Rehabilitation Act of 1973, as Amended;
 4. Older Americans Act of 1965, as Amended;
 5. Federal Fair Labor Standards Act of 1938 (FLSA), as Amended, including but not limited to the provisions of FLSA relating to payment for travel time; payment for all hours worked and payment of the minimum wage and overtime;
 6. Age Discrimination Act of 1975, as Amended;
 7. Age Discrimination in Employment Act of 1967, as Amended;
 8. Americans with Disabilities Act of 1990;
 9. State and local health, fire, safety, zoning, and sanitation codes;

10. Drug-Free Workplace Act of 1988;
 11. Federal, State, and local regulations regarding taxes, unemployment, and workers compensation;
 12. Health Insurance Portability and Accountability Act ("HIPAA")
 13. Family Medical Leave Act ("FMLA"); and
 14. Uniformed Services Employment and Reemployment Rights Act ("USERRA")
- B. Provider at its sole cost shall conduct a criminal background check as required within the Conditions of Participation and Service Specifications.
- C. Provider shall incorporate the foregoing requirements (Paragraph B of this section) in all Subcontracts for work hereunder. Subcontracts shall not be made without the prior knowledge of COA.

SECTION 8 EQUAL EMPLOYMENT OPPORTUNITY

- A. In carrying out this Agreement, Provider shall comply with all laws state and federal prohibiting discrimination in employment. This includes discrimination based on race, religion, national origin, color, sex, sexual orientation, age disability or Veteran status.
- B. Provider shall incorporate these requirements in all subcontracts for work completed under this Agreement.
- C. Provider shall, upon request, furnish COA with its policy prohibiting discrimination and affirmative action plan, if applicable.

SECTION 9 DEBARMENT AND SUSPENSION

Provider certifies that neither it nor its principals are at any time during this Agreement debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any state or federal department or agency. The term 'principal' for purposes of this Agreement is defined as an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or other control over the operations of the Provider's business. Provider shall notify COA immediately in the event it becomes aware of any such actual or proposed debarment, suspension, ineligibility, or voluntary exclusion.

SECTION 10 COMPLIANCE REVIEW

- A. Provider will maintain documentation, as appropriate, to support each action under this Agreement and will file it in a manner allowing it to be readily located.
- B. COA's Contract Compliance Specialist will perform a compliance and financial review. This review shall include a comprehensive review of all applicable documentation. Provider shall cooperate fully to accomplish

said unit review. The timing of the review performed shall be at the discretion of COA.

- C. Provider agrees to accept responsibility for receiving, replying to, and/or complying with any unit review exceptions directly related to the provisions of this Agreement. Provider agrees to accept the conclusions of and to be bound by the results of the review and to pay to COA, upon demand, within ten (10) business days after receipt of written notice to do so, the full amount as may be determined in any review exceptions.

SECTION 11 INSURANCE

- A. Provider, at Provider's sole cost and expense, agrees to carry and maintain in full force, with no interruption of coverage during the entire term of this Agreement:
 - 1. Commercial General Liability (CGL): written on an "occurrence" basis with no premises restrictions, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$5,000,000 per occurrence, \$10,000,000 aggregate. Defense costs shall be outside the policy limits.
 - 2. Automobile Liability insurance covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with a limit no less than \$1,000,000 per accident for bodily injury and property damage. In the event employees are using their personally owned vehicles to perform services under this contract, Contractor's commercial auto must include hired and non-owned autos and the employees as insureds endorsement.
 - 3. Workers' Compensation insurance as required by the State of Ohio, or the state in which the work will be performed, with Statutory Limits, and Employer's Liability Insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease. If Contractor is a sole proprietor, partnership or has no statutory requirement for workers' compensation, Contractor must provide a letter stating that it is exempt and agreeing to hold State of Ohio harmless from loss or liability for such.
 - 4. Professional Liability (Errors and Omissions, Malpractice) Insurance appropriate to the Contractor's profession, with limits not less than \$5,000,000 per occurrence or claim and shall include malpractice and sexual abuse and molestation. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall cover all applicable Contractor personnel or who perform professional services related to this agreement.
 - 5. Cyber liability (first and third party) with limits not less than \$2,000,000 per claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is

undertaken by Contractor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information (including paper documents), alteration of electronic information, extortion and network security. The coverage shall provide for breach response costs as well as regulatory fines and penalties and credit monitoring expenses with limits sufficient to respond to these obligations.

6. Third Party Fidelity or similar insurance covering client loss due to theft of client's property or money by any employee of Provider. Provider shall furnish COA with a Certificate of Insurance evidencing Provider has the appropriate insurance to cover client loss due to theft or property damage. Provider understands it is responsible for ensuring a current Certificate of Insurance is received by COA's Procurement and Provider Services Department whenever a change is made to the Provider's Third Party Fidelity insurance coverage, including, but not limited to, change in insurance carrier(s), change in coverage, renewal of coverage.

- B. Provider shall have all the above described insurance in full force and effect prior to the commencement of work under this Agreement. The insurance must be through a carrier licensed to provide insurance in Ohio and reasonably acceptable to COA. Cancellation or non-renewal of required insurance, or not furnishing COA with evidence of required insurance coverage shall be grounds to terminate this Agreement.
- C. The insurance required under this Agreement shall cover the acts or omissions of both paid employees working for Provider.
- D. Provider shall require the same amount of insurance from all subcontractors utilized under this Agreement.

SECTION 12 AMENDMENT

This Agreement may not be amended except through a written instrument signed by both parties. It is agreed, however, that any amendments to laws, rules, or regulations cited herein, or The Scope of Services, Provided by the State of Ohio, will result in the correlative modification of this Agreement, without the necessity for executing a written amendment.

SECTION 13 TERMINATION

- A. Notwithstanding anything herein to the contrary, either party may at any time during the term of the Agreement or any extension thereof, with or without cause and without having to show a breach, terminate this Agreement by giving one hundred and twenty (120) days' notice in writing to the other party of its intention to do so. Provider must notify

COA of its intent to terminate this Agreement prior to notifying clients (being serviced by Provider for COA under this Agreement) of such termination. Provider will assist care managers with transition of clients to another contracted COA Provider as necessary. In addition, the Agreement may be terminated at any time (without 60 days written notice) by COA for good and just cause as determined within the sole and absolute discretion of COA, including but not limited to Provider's neglect, misconduct, fraud, misappropriation, embezzlement, violation of any of the provisions of this Agreement, or to funding decline. In the event funds to finance this Agreement, or part of this Agreement, become unavailable, the parties will make best efforts to provide twenty (20) days written notice to the other party prior to termination. COA shall be final authority as to the availability of funds. All such notices shall be in writing and shall be delivered according to the "Notice Requirements" provided in Section XVI of this Agreement.

- B. If, in the opinion of COA, the Provider has materially breached any of the terms of this Agreement, COA shall deliver to Provider a written notice detailing the nature of the breach. If Provider has not cured or made arrangements satisfactory to COA to cure the breach within ten (10) working days of receipt of the written notice thereof, COA, at its sole discretion, may suspend or terminate this Agreement immediately upon written notice of such suspension or termination.

SECTION 14 ASSIGNABILITY

- A. Except as expressly provided herein, neither COA nor Provider has the right or power to assign, subcontract, or transfer its rights and duties under this Agreement without the prior written consent of the other. COA and Provider each bind themselves, their successors, and assignees to this Agreement.
- B. Nothing herein shall be construed as creating any personal liability on the part of any officer, director, trustee, member, employee, or agent of either COA or Provider.
 - C. If Provider is purchasing or being purchased by, or merging with, another entity (even if the purchasing/merging entity is a Provider with an existing Service Provider Agreement with COA), Provider shall provide written notice to COA at least sixty days (60) prior to the effective merger or purchase date. COA reserves the right to not approve of the Purchase or Merger if not in the best interest of COA or its clients and to cancel its contract with the Provider. Provider must notify COA prior to notifying clients (being serviced by Provider for COA under this Agreement) of such purchase or merger. Provider will assist care managers with transition of clients to another contracted COA Provider as necessary. Provider acknowledges that a purchase of, or merger with, another entity may affect the terms of this Agreement.

In the event that Provider subcontracts any of its obligations

hereunder, Provider shall not be released from said obligations and Purchaser shall remain directly liable to COA for compliance with all of the terms of this Agreement and full performance of all of Provider's obligations hereunder, as and when the same are due.

SECTION 16 MISCELLANEOUS

A. APPEALS:

Provider shall have the right of appeal on actions taken by COA pertaining to this Agreement per COA policies.

B. CONFLICT OF INTEREST:

Provider agrees that it will not enter into any agreements or arrangements that would be in direct conflict with the spirit of this contract or any of the attached Exhibits

RELATIONSHIP OF THE PARTIES:

It is mutually understood and agreed that Provider is and shall at all times be considered to be engaged by COA to perform services pursuant to this Agreement as an independent contractor. Provider is not an agent or employee of COA by virtue of this Agreement. COA shall neither have nor exercise any control or direction over the methods by which Provider shall perform Provider's work and functions under this Agreement, provided that all services shall at all times be performed in a manner consistent with all relevant professional standards and the provisions of this Agreement.

This Agreement may be renewed or extended upon the mutual written agreement of Provider and COA.

C. MEDIA, PUBLIC RELATIONS, AND OUTREACH:

Provider shall collaborate with COA to help ensure that media relations, public information, and outreach related to this agreement or the services provided under this agreement are mutually beneficial to the Provider and to COA including any use of social media.

Any outreach campaigns, including media relations, shall be coordinated with the COA Communications Manager prior to planning such campaigns.

Program information, whether in print or electronic format, shall include at a minimum, the COA Agency Partner logo and a statement that the program is administered by Council on Aging of Southwestern Ohio. Formats for such information include, but are not limited to brochures, annual reports, news releases, media interviews, and web site content. The COA Agency Partner logo can be downloaded from the COA website, www.help4seniors.org, under Service Provider Information. Or, upon request to the Communications Manager

, COA will furnish Provider with logo in electronic format.

If provider has a web site that includes content about the Services provided by this agreement, Provider shall establish and maintain a link from the COA

section to the COA website, www.help4seniors.org.

Although information about and generated under this Agreement may fall within the public domain, Provider will not release information about or related to this Agreement to the general public or media verbally, in writing, or by any electronic means without prior approval from the COA Communications Manager, unless Provider is required to release requested information by law.

Except where COA approval has been granted in advance, the Provider will not seek to publicize and will not respond to unsolicited media queries requesting: announcement of Agreement award, Agreement terms and conditions, Agreement scope of work, government-furnished documents COA may provide to Provider to fulfill the Agreement scope of work, deliverables required under the Agreement, results obtained under the Agreement, and impact of Agreement activities. If contacted by the media about this Agreement, Provider agrees to notify the COA Communications Manager in lieu of responding immediately to media queries. If it is not feasible for the Provider to contact the Communications Manager first, the Provider may discuss with the media general service provision only as related to the Agreement.

Nothing in this section is meant to restrict Provider from using Agreement information and results to market to specific clients or prospects.

Provider shall not make any monetary, material or "in kind" contribution of any nature to COA or any COA staff member, manager, trustee, officer or agent. COA reserves the right to announce to the general public and media: award of the Agreement, Agreement terms and conditions, scope of work under the Agreement, deliverables and results obtained under the Agreement, impact of Agreement activities, and assessment of Providers' performance under the Agreement.

1. Provider will ensure that no information about, or obtained from, an individual and in its possession will be disclosed in a form identifiable with an individual without the informed consent of the individual. Lists of older persons compiled pursuant to the provision of Information and Referral will be used solely for the purpose of providing social services, only with the informed consent of each individual on such list.

D. **WAIVER OF BREACH:**

Any waiver of any breach of this Agreement shall not be construed to be a continuing waiver or consent to any subsequent breach on the part of either party to this Agreement.

E. **SEVERABILITY:**

If any provision of the Agreement is held to be unenforceable for any reason, the remainder of this Agreement shall, nevertheless, remain in full force and effect.

F. **GOVERNING LAW:**

This Agreement shall be governed by and construed in accordance with the

laws of the State of Ohio, without regard to its rules as to conflicts of laws.

G. RESTRICTION ON USE OF LEVY FUNDS:

Provider agrees that funds will not be used by the Provider to engage in any claim or litigation against the COA, the State of Ohio or any department or division of the government. In addition, funds may not be used for any political campaign purpose.

H. DISPUTE RESOLUTION:

Provider agrees that any disputes between Provider and COA which are unable to be resolved between the parties shall be resolved in accordance with the applicable requirements, if any, under the agreement between COA and the State of Ohio.

I. CONTINUITY OF OPERATIONS:

Provider should have a plan in place to ensure continuity of operations in the event of an emergency.

M INCIDENTS AND ALERTS

Provider shall notify COA of any and all major unusual incidents that impact the Provider and/or any client served pursuant to this Agreement. The notification shall be phoned or e-mailed to COA's Manager of Contracts and Procurement and the Manager immediately, within one hour, after the Provider becomes aware of the incident or the alert. Provider agrees to furnish upon request of COA any reports relating to such incidents and alerts and to cooperate with COA and/or its authorized representatives in any investigation of any major unusual incident.

SECTION 16 NOTICE REQUIREMENTS

Whenever, under this Agreement, notice is required to be given, it shall be in writing and shall be hand-delivered or sent via the United States Certified Mail or an overnight express carrier, postage prepaid, return receipt requested, to the party to receive the notice at:

If to COA to: Suzanne Burke, Chief Executive Officer
Council on Aging of Southwestern Ohio
175 Tri County Parkway
Cincinnati, Ohio 45246

If to Provider to:

SECTION 17 PRIORITY OF DOCUMENTS

The Agreement, the RFP, all attachments, the Conditions of Participation, the Service Specifications and other documents referenced therein shall be read so as to complement each other. However, in the event of a conflict requiring interpretation of the documents the order of precedence shall be as follows:

1. The contract document
2. Exhibit A the RFP and all attachments and addenda
3. Exhibit B the Providers proposal and any clarifications

SECTION 18 EMERGENCY PREPAREDNESS

Policy Statement:

In an emergency, it is Council on Aging of Southwestern Ohio's (COA) responsibility to do what is necessary to sustain critical services to our clients. An "emergency" is defined as an event or series of events that place the operational capacity of COA at risk and/or significantly disrupts client services or places clients at risk. When such events occur, COA will coordinate efforts of the whole provider network in developing a response strategy and will also serve as the primary liaison to the local emergency management officials on behalf of the agency network. Providers are therefore expected to cooperate with these efforts and make their resources available to respond in a crisis.

COA's Continuity of Operations Plan (COOP) for responding to emergencies is activated at the discretion of the CEO and/or the Senior Leadership Team and may be activated if any of the following circumstances apply:

- Operational capacity has been or is likely to be impacted for more than 72 hours.

- If client services have been or are likely to be disrupted for more than 24 hours.
- If clients are or are likely to be at risk.
- If the magnitude of the event requires significant mobilization of resources.
- A weather alert or warning is issued by the National Weather Service and COA deems it necessary to prepare for weather which will significantly impact client services and business operations.

As emergencies do not always present themselves immediately and may develop over time, COA and the Provider must be able to recognize potential emergencies that place our operations or clients at risk. Clients may be at risk even if operations are not impacted, for example, a power outage during a heat wave.

Provider Requirements in an Emergency

The Provider agrees to the following:

1. The Provider will have a continuity of operations plan. At a minimum, that plan will include a plan for back-up operations should the provider's main business location become unavailable.
2. In the event of an emergency, COA will activate their Continuity of Operations Plan and notify providers that the COOP is activated and provide a single point of contact for the providers. Unless otherwise specified, COA's Procurement and Provider Relations Manager will serve as the primary point of contact and the Director of Business Operations will serve as the backup. Notification may be made by email, telephone, or website.
3. COA will take the lead in coordinating the response, unless COA's operations are significantly impacted by the emergency. The Provider will work with COA to coordinate the response. The Providers agree to follow the instructions provided by COA and local EMA officials. The Provider will deploy available resources to aid in the response effort even if the activity is outside the normal course of operations. This may include:
 - a. Not closing operations, and standing ready to step up operations and services;
 - b. Providing services beyond the provider's traditional territory;
 - c. Deploying the provider's resources in different ways to include the provider's facility(s), equipment, staff, and resources (e.g., using the senior center as emergency shelter/housing).
4. The provider will notify COA immediately if the Provider is unable to provide services for which they are contracted and/or provide emergency response support as requested.
5. Providers will report information to COA immediately if they believe a situation is developing that may severely impact their operational capacity or place clients at risk and/or upon request of COA or emergency management officials.

6. The provider will notify COA immediately if the Provider has information about changes to client needs during an emergency.
7. COA will work with providers to seek funding, as available from other sources which become available when a state of emergency is declared, in the event the providers incur unfunded expenses in the effort to maintain client safety, sustain critical services, and/or meet critical needs not covered, but required due to the crisis. Providers will therefore track their expenses during crisis situations where COA has activated the COOP.
8. The Provider will participate in readiness activities such as planning for emergencies, table top and other exercises, and providing contact and other organizational information.

SECTION 19 TERM OF THE AGREEMENT

The Agreement by and between Provider and COA effective on XXXXX, shall remain in effect, unless amended or terminated by one or more of the parties, through XXXXXXXXX

This Agreement together with the Exhibits constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all prior Agreements and understandings, whether written or oral.

All provisions in this Agreement that by their terms must necessarily be performed after termination or expiration of this Agreement (e.g., records retention, auditing requirements, etc.) shall survive such termination or expiration.

SECTION 20 SIGNATURES

IN WITNESS WHEREOF, the parties hereto have affixed their signatures.

PROVIDER:

By:

_____ Date: _____

COA: Council on Aging of Southwestern Ohio

By:

_____ Date: _____
Suzanne Burke, Chief Executive Officer

BUSINESS ASSOCIATE AGREEMENT

COUNCIL ON AGING OF SOUTHWESTERN OHIO

WHEREAS, pursuant to the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 2024 (Aug. 21, 1996) ("HIPAA"), the Office of the Secretary of the Department of Health and Human Services has issued: (1) regulations providing Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Subparts A and E of Part 164 ("Privacy Rule"); (2) regulations providing Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Subpart C of Part 164 (the "Security Rule"); (3) regulations requiring certain transmissions of electronic data be conducted in standardized formats at 45 CFR Subpart I of Part 162 (the "Electronic Transactions Rule"); and (4) regulations modifying the Privacy Rule, Security Rule, Enforcement and Breach Notification Rules; and

WHEREAS, the privacy and security provisions of HIPAA have been amended by the Health Information Technology for Economic and Clinical Health Act (HITECH) provisions of the American Recovery and Reinvestment Act of 2009, and any and all references in this Agreement to the "HIPAA Rules" shall be deemed to include the Privacy Rule, the Security Rule, the Electronic Transaction Rule, HITECH, the Enforcement and Breach Notification Rules, and all existing and future implementing regulations, as they become effective; and

WHEREAS, the HIPAA Rules provide, among other things, that a Covered Entity is permitted to disclose Protected Health Information to a Business Associate and allow the Business Associate to obtain, receive, and create Protected Health Information on the Covered Entity's behalf, only if the Covered Entity obtains satisfactory assurances in the form of a written contract, that the Business Associate will appropriately safeguard the Protected Health Information; and

WHEREAS, Council on Aging of Southwestern Ohio ("Covered Entity") has engaged _____ ("Business Associate") to perform services pursuant to an agreement to provide service to Covered Entity, which may be described in a separate contract (the "Services Arrangement") and Business Associate may receive Protected Health Information from Covered Entity, or create and receive such information on behalf of Covered Entity in the performance of services on behalf of Covered Entity. Covered Entity and Business Associate desire to determine the terms under which they shall comply with the HIPAA Rules;

NOW THEREFORE, Covered Entity and Business Associate agree as follows:

1. GENERAL HIPAA COMPLIANCE PROVISIONS

1.1. **HIPAA Definitions.** Except as otherwise provided in this Agreement, all capitalized terms contained in this Agreement shall have the meanings set forth in the HIPAA Rules.

1.2. **HIPAA Readiness.** Business Associate agrees that it will be fully compliant with the requirements of the HIPAA Rules by the compliance dates established under such rules to the extent necessary to enable Covered Entity to comply with their obligations under the HIPAA Rules.

1.3. **Changes in Law.** Business Associate agrees that it will comply with any changes in HIPAA Rules by the compliance date established for any such changes. If, due to such a change, either or all of the parties are no longer required to treat Protected Health Information in the manner provided for in this

Agreement, the parties shall renegotiate this Agreement, subject to the requirements of Section 5. Any such renegotiation shall occur as soon as practicable following the occurrence of the change.

1.4. **Relationship.** The relationship of the Business Associate to Covered Entity is solely a contractual relationship and nothing in the Services Arrangement or this Agreement shall be interpreted as creating an agency relationship with the Business Associate under Federal common law.

2. OBLIGATIONS OF BUSINESS ASSOCIATE

2.1. Permitted Uses and Disclosures of Protected Health Information.

2.1.1. **Uses and Disclosures on Behalf of Covered Entity.** The Business Associate shall be permitted to use and disclose Protected Health Information for services Business Associate is providing to Covered Entity pursuant to the Services Arrangement, which may include but not be limited to Treatment, Payment activities and/or Health Care Operations, and as otherwise required to perform its obligations under this Agreement and the Services Arrangement.

2.1.2. **Other Permitted Uses and Disclosures.** In addition to the uses and disclosures set forth in Section 2.1.1, Business Associate may use or disclose Protected Health Information received from, or created or received on behalf of, Covered Entity under the following circumstances:

2.1.2.1. **Use of Protected Health Information for Management, Administration, and Legal Responsibilities.** Business Associate is permitted to use Protected Health Information if necessary for the proper management and administration of Business Associate or to carry out its legal responsibilities.

2.1.2.2. **Disclosure of Protected Health Information for Management, Administration, and Legal Responsibilities.** Business Associate is permitted to disclose Protected Health Information if necessary for the proper management and administration of Business Associate, or to carry out its legal responsibilities, provided that the disclosure is required by law, or Business Associate obtains reasonable assurances from the person to whom the Protected Health Information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, the person will use appropriate safeguards to prevent use or disclosure of the information, and the person will notify Business Associate immediately of any instance of which it is aware in which the confidentiality of the Protected Health Information has been breached.

2.1.2.3. **Data Aggregation Services.** Business Associate is also permitted to use or disclose Protected Health Information to provide data aggregation services, as that term is defined by 45 CFR 164.504, relating to the health care operations of Covered Entity.

2.1.2.4. **Commercial Purposes.** Business Associate is only permitted to receive direct or indirect remuneration for any exchange of PHI not otherwise authorized under HITECH without individual authorization, if (i) specifically required for the provision of services under the underlying Services Arrangement; (ii) for treatment purposes; (iii) providing the individual with a copy of his Protected Health Information; or (iv) otherwise determined by the Secretary in regulations.

2.1.3. **Further Uses Prohibited.** Except as provided in Sections 2.1.1 and Section 2.1.2, Business Associate is prohibited from further using or disclosing any information received from Covered Entity, or from any other Business Associate of Covered Entity, for any commercial purposes of Business Associate, including, for example, "data mining." Business Associate shall not engage in any sale (as defined in HIPAA Rules) of Protected Health Information.

2.2. **Minimum Necessary.** Business Associate shall only request, use, and disclose the minimum amount of Protected Health Information necessary to accomplish the purposes of the request, use, or disclosure. Business Associate and Covered Entity acknowledge that the phrase “minimum necessary” shall be interpreted in accordance with HITECH and the HIPAA Rules.

2.3. **Prohibited, Unlawful, or Unauthorized Use and Disclosure of Protected Health Information.** Business Associate shall not use or further disclose any Protected Health Information received from, or created or received on behalf of, Covered Entity, in a manner that would violate the requirements of the Privacy Rule if done by Covered Entity.

2.4. **Required Privacy Safeguards.** Business Associate will develop, implement, maintain, and use appropriate safeguards to prevent use or disclosure of Protected Health Information received from, or created or received on behalf of, Covered Entity or other than as provided for in this Agreement or as required by law, including adopting policies and procedures regarding the safeguarding of Protected Health Information; and providing training to relevant employees, independent contractors, and subcontractors on such policies and procedures to prevent the improper use or disclosure of Protected Health Information. To the extent Business Associate will carry out one or more of Covered Entity’s obligations under the Privacy Rule, the Business Associate will comply with the requirements of the Privacy Rules that apply to the Covered Entity in the performance of such obligations.

2.5. **Mitigation of Improper Uses or Disclosures.** Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

2.6. **Reporting of Unauthorized Uses and Disclosures.** Business Associate shall promptly report in writing to Covered Entity any use or disclosure of Protected Health Information not provided for under this Agreement, of which Business Associate becomes aware, but in no event later than five business days of first learning of any such use or disclosure. Business Associate agrees that if any of its employees, agents, subcontractors or representatives use or disclose Protected Health Information received from, or created or received on behalf of, Covered Entity, or any derivative De-identified Information in a manner not provided for in this Agreement, Business Associate shall ensure that such employees, agents, subcontractors and representatives shall receive training on Business Associate’s procedures for compliance with the HIPAA Rules, or shall be sanctioned or prevented from accessing any Protected Health Information Business Associate receives from, or creates or receives on behalf of, Covered Entity. Continued use of Protected Health Information in a manner contrary to the terms of this Agreement shall constitute a material breach of this Agreement.

2.7. **Security Rule.**

2.7.1. **Security Safeguards.** Business Associate agrees to implement administrative, physical, and technical safeguards set forth in the Security Rule that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity.

2.7.2. **Security Incidents.** Business Associate agrees to report to Covered Entity any unauthorized access, use, disclosure, modification, or destruction of information or interference with information system operations which affect Electronic Protected Health Information created, received, maintained, or transmitted on behalf of Covered Entity of which Business Associate becomes aware. Business Associate agrees to also report to Covered Entity any attempted unauthorized access affecting Electronic Protected Health Information created, received, maintained, or transmitted on behalf of Covered

Entity of which Business Associate becomes aware; provided that Business Associate determines that the attempted access was material and credible.

2.8. **Breach Incident Notifications.** Business Associate agrees to notify the applicable Covered Entity of any disclosure of Unsecured Protected Health Information that may constitute a Breach (a “Breach Incident”) within 10 days from the date of discovery.

2.8.1. **Information About Breach Incident.** Business Associate shall provide a report to Covered Entity within 15 days of discovery of a Breach Incident except when despite all reasonable efforts by Business Associate to obtain the information required, circumstances beyond the control of the Business Associate necessitate additional time. Under such circumstances Business Associate shall provide to Covered Entity the required information as soon as possible and without unreasonable delay, but in no event later than 30 calendar days from the date of discovery of a Breach Incident. A Breach Incident will be treated as discovered in accordance with 45 CFR §164.410. The Business Associate’s report shall include: (i) the date of the Breach Incident; (ii) the date of discovery of the Breach Incident; (iii) a list of each individual whose Unsecured Protected Health Information has been or is reasonably believed to have been used, accessed, acquired, or disclosed during the Breach Incident; (iv) a description of the type of Unsecured Protected Health Information involved; (v) the identity of who made the non-permitted use or disclosure and who received the non-permitted disclosure (if known); and (vi) any other details necessary to complete an assessment of the risk of harm to the affected individual.

2.8.2. **Notification to Individual and Others.** Unless otherwise agreed between Covered Entity and Business Associate, if Covered Entity determines that the disclosure of Unsecured Protected Health Information constitutes a Breach, Covered Entity shall be responsible to provide notification to individuals whose Unsecured Protected Health Information has been disclosed, as well as the Secretary of Health and Human Services and the media, as required by 45 CFR 164 Subpart D. Business Associate agrees to pay actual costs for notification and of any associated mitigation incurred by Covered Entity, such as credit monitoring, if Covered Entity reasonably determines that the Breach is significant enough to warrant such measures.

2.8.3. **Investigation and New Procedures.** Business Associate agrees to investigate the Breach Incident and to establish procedures to mitigate losses and protect against future Breach Incidents, and to provide a description of these procedures and the specific findings of the investigation to Covered Entity in the time and manner reasonably requested by Covered Entity.

2.9. **Individual Requests.** Covered Entity and Business Associate acknowledge that Individuals have certain rights under the Privacy Rule to access, amend and receive an accounting of certain disclosures of their Protected Health Information. Business Associate further understands that Covered Entity has developed specific policies and procedures to be followed for Individuals who make such requests as an exercise of their rights under the Privacy Rule. A request by an Individual or such Individual’s personal representative made in accordance with such policies and procedures to access, amend or receive an accounting of disclosures of the Individual’s Protected Health Information is referred to herein as a “Formal HIPAA Request.”

2.9.1. **Access to Protected Health Information.** Within 10 days of Covered Entity’s request on behalf of an Individual, Business Associate agrees to make available to Covered Entity any relevant Protected Health Information in a Designated Record Set received from, or created or received on behalf of, Covered Entity in accordance with the Privacy Rule. If Business Associate receives, directly or indirectly, a request from an individual requesting Protected Health Information, Business Associate shall notify Covered Entity in writing promptly of such request no later than 5 business days of receiving such request. If Covered Entity requests an electronic copy of Protected Health Information that is maintained electronically in a

Designated Record Set in the Business Associate's custody or control, Business Associate will provide an electronic copy in the form and format specified by Covered Entity if it is readily producible in such format; if it is not readily producible in such format, Business Associate will work with Covered Entity to determine an alternative form and format that enables Covered Entity to meet its electronic access obligations under 45 CFR §164.524.

2.9.2. Amendment of Protected Health Information. Within 10 days of Covered Entity's request, Business Associate agrees to make available to Covered Entity any relevant Protected Health Information in a Designated Record Set received from, or created or received on behalf of, Covered Entity so Covered Entity may fulfill its obligations to amend such Protected Health Information pursuant to the Privacy Rule. Business Associate shall incorporate any amendments to Protected Health Information into any and all Protected Health Information Business Associate maintains. If Business Associate receives, directly or indirectly, a request from an Individual requesting Protected Health Information, Business Associate shall notify Covered Entity in writing promptly of such request no later than 5 business days of receiving such request. Covered Entity shall have full discretion to determine whether the requested amendment shall occur.

2.9.3. Accounting of Disclosures. Business Associate shall maintain, beginning as of the date Business Associate first receives Protected Health Information from Covered Entity, an accounting of those disclosures of Protected Health Information it receives from, or creates or receives on behalf of, Covered Entity which are not excepted from disclosure accounting under the Privacy Rule. Within 10 days of Covered Entity's request, Business Associate shall make available to Covered Entity the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528. If Business Associate receives, directly or indirectly, a request from an individual requesting an accounting of disclosures of Protected Health Information, Business Associate shall notify Covered Entity in writing promptly of such request no later than 5 business days of receiving such a request. Business Associate shall provide such an accounting based on an Individual's Formal HIPAA Request to the Covered Entity. Covered Entity shall have full discretion to determine whether the requested accounting shall be provided to the requesting Individual. Business Associate will maintain the disclosure information for at least 6 years following the date of the accountable disclosure to which the disclosure information relates.

2.10. Restrictions and Confidential Communications. Business Associate shall, upon notice from Covered Entity in accordance with Section 3.3, accommodate any restriction to the use or disclosure of Protected Health Information and any request for confidential communications to which Covered Entity has agreed or is required to abide by in accordance with the Privacy Rule.

2.11. Subcontractors. Business Associate will require any of its Subcontractors to whom it provides Protected Health Information received from, or created or received on behalf of, Covered Entity to agree, in a written agreement with Business Associate, to comply with the Security Rule, and to agree to all of the same restrictions and conditions contained in this Agreement or the Privacy and Security Rules that apply to Business Associate with respect to such information. Business Associate shall not assign any of its rights or obligations under this Agreement without the prior written consent of Covered Entity. Business Associate shall provide Covered Entity for approval a copy of any agreement with any agent or subcontractor to whom Business Associate provides Protected Health Information received from, or created or received on behalf of, Covered Entity prior to its execution.

2.12. Data Transmission. The parties agree that Business Associate shall, on behalf of Covered Entity, transmit data for transactions that are required to be conducted in standardized format under the HIPAA Rules.

2.12.1. **Standardized Format.** Business Associate shall comply with the HIPAA Rules for all transactions conducted on behalf of Covered Entity that are required to be in standardized format.

2.12.2. **Subcontractors.** Business Associate shall ensure that any of its subcontractors to whom it delegates any of its duties under its contract with Covered Entity, agrees to conduct and agrees to require its agents or subcontractors to comply with the HIPAA Rules for all transactions conducted on behalf of Covered Entity that are required to be in standardized format.

2.13. **Audit.**

2.13.1. **Audit by Secretary of Health and Human Services.** Business Associate shall make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received on behalf of, Covered Entity available to the Secretary of Health and Human Services upon request for purposes of determining compliance by Covered Entity with the Privacy and Security Rules.

2.13.2. **Audit by Covered Entity.** Business Associate shall make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received on behalf of, Covered Entity available to Covered Entity within 14 business days of Covered Entity's request for the purposes of monitoring Business Associate's compliance with this Agreement.

2.14. **Enforcement.** Business Associate acknowledges that it is subject to civil and criminal enforcement for failure to comply with the HIPAA Rules.

3. OBLIGATIONS OF COVERED ENTITY

3.1. **Notice of Privacy Practices.** Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any changes to such notice.

3.2. **Revocation of Permission.** Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by any Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures with respect to Covered Entity.

3.3. **Notice of Restrictions and Confidential Communications.** Covered Entity shall notify Business Associate of any restriction on the use or disclosure of Protected Health Information and any request for confidential communications that Covered Entity has agreed to or must abide by in accordance with the HIPAA Rules.

3.4. **Permissible Requests By Covered Entity.** Except as provided in Section 2.1, Covered Entity shall not request that Business Associate use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

4. LIABILITY

4.1. **Indemnification by Business Associate.** Business Associate shall be solely responsible for, and shall indemnify and hold Covered Entity harmless from any and all claims, damages, or causes of action (including the Covered Entity's reasonable attorneys' fees) arising out of the gross negligence or willful misconduct of Business Associate or Business Associate's employees, agents, and Subcontractors (or arising

out of any action by the Business Associate that is determined to have been taken as the agent of the Covered Entity under the terms of the Services Agreement or this Agreement), and Business Associate will pay all losses, costs, liabilities, and expenses agreed to in settlement of, or in compromise of, or finally awarded Covered Entity in connection with such claims or actions. Covered Entity shall notify Business Associate promptly of any action or claims threatened against or received by them and provide Business Associate with such cooperation, information, and assistance as Business Associate shall reasonably request in connection therewith. This Section 4.1 shall survive the termination of this Agreement.

4.2. **Indemnification by Covered Entity.** Covered Entity shall be solely responsible for, and shall indemnify and hold Business Associate harmless from any and all claims, damages, or causes of action arising out of the gross negligence or willful misconduct of Covered Entity or Covered Entity's employees, agents, and Subcontractors, and Covered Entity will pay all losses, costs, liabilities, and expenses agreed to in settlement of, or in compromise of, or finally awarded against the Business Associate in connection with such claims or actions. Business Associate shall notify Covered Entity promptly of any action or claims threatened against or received by Business Associate and provide Covered Entity with such cooperation, information, and assistance as Covered Entity shall reasonably request in connection therewith. This Section 4.2 shall survive the termination of this Agreement.

5. AMENDMENT AND TERMINATION

5.1. **Termination for Violation of Agreement.** Without limiting the rights of the parties under the Services Arrangement, Covered Entity will have the right to terminate this Agreement and the Services Arrangement if Business Associate has engaged in an activity or practice that constitutes a material breach or violation of Business Associate's obligations regarding Protected Health Information under this Agreement and, on notice of such material breach or violation from Covered Entity, fails to take reasonable and diligent steps to cure the breach or end the violation. Covered Entity will follow the notice of termination procedures (if any) applicable to the Services Arrangement. Notwithstanding the termination of this Agreement, Business Associate shall continue to comply with Section 5.2 hereof after termination of this Agreement.

5.2. **Return of Protected Health Information.** At termination of this Agreement or the Services Arrangement, whichever shall be first to occur, Business Associate shall return to Covered Entity all Protected Health Information received from, or created or received on behalf of, Covered Entity that Business Associate maintains in any form and shall retain no copies of such information. This provision shall also apply to Protected Health Information that is in the possession of any Subcontractor of Business Associate. Further, Business Associate shall require any such Subcontractor to certify to Business Associate that it has returned or destroyed all such information. If such return is not feasible, Business Associate shall notify Covered Entity thereof and Business Associate shall destroy such Protected Health Information and/or extend the protections of this Agreement to such Protected Health Information retained by Business Associate and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

6. MISCELLANEOUS PROVISIONS

6.1. **Third-Party Beneficiary.** No individual or entity is intended to be a third-party beneficiary to this Agreement.

6.2. **Severability.** If any provisions of this Agreement shall be held by a court of competent jurisdiction to be no longer required by the HIPAA Rules, the parties shall exercise their best efforts to determine whether such provision shall be retained, replaced, or modified.

6.3. **Procedures.** The parties shall comply with procedures mutually agreed upon by the parties to facilitate the Covered Entity's compliance with the HIPAA Rules, including procedures for employee sanctions and procedures designed to mitigate the harmful effects of any improper use or disclosure of the Protected Health Information of Covered Entity.

6.4. **Choice of Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the state of Ohio, except to the extent federal law applies.

6.5. **Headings.** The headings and subheadings of the Agreement have been inserted for convenience of reference only and shall not affect the construction of the provisions of the Agreement.

6.6. **Cooperation.** The parties shall agree to cooperate and to comply with procedures mutually agreed upon to facilitate compliance by Covered Entity with the HIPAA Rules, including procedures designed to mitigate the harmful effects of any improper use or disclosure of Covered Entity's Protected Health Information.

6.7. **Notice.** All notices, requests, demands, approvals, and other communications required or permitted by this Agreement shall be in writing and sent by certified mail or by personal delivery. Such notice shall be deemed given on any date of delivery by the United States Postal Service. Any notice shall be sent to the following address (or such subsequent address provided by the applicable party):

6.7.1. If to Covered Entity:

Council on Aging
Privacy Officer
175 Tri County Parkway
Cincinnati, Ohio 45246
(513) 721-1025

6.7.2. If to Business Associate

6.8. **Conflict.** In the event of any conflict between the provisions of the Services Arrangement and this Agreement, the terms of this Agreement shall govern to the extent necessary to assure Covered Entity's compliance with the HIPAA Rules.

IN WITNESS WHEREOF, the undersigned, having full authority to bind their respective principals, have executed this Agreement as of this ____ day of _____, 202_.

Covered Entity:

COUNCIL ON AGING OF SOUTHWESTERN OHIO

By: _____

Title: Chief Executive Officer

Date: _____

Business Associate:

_____ [BA Name]

By: _____

Title: _____

Date: _____

Appendix F: Appeals Process

The Bidder shall have the right of appeal regarding actions taken by COA pertaining to this RFP per the COA Appeals Process Policy.

COA Appeals Process Policy

COA funds a variety of services for older adults in Southwestern Ohio. Certain funding sources have unique requirements relative to appeals procedures, including the types of actions eligible for appeal. For those funding sources that do not otherwise have established appeals procedures, COA has established appeal protocol. The appeals procedures, by funding source, are set forth in this policy.

An applicant dissatisfied with the outcome of the evaluation process may appeal the outcome in accordance with this policy. The right of appeal is limited to a decision by COA not to award an agreement to such applicant for all or some of the services for which the applicant applied. No other issues, actions or decisions are subject to appeal.

Applicants may appeal only after all efforts to administratively resolve the issue(s) have been exhausted. Any administrative efforts to resolve the adverse decision should be forward to the Chief Financial Officer or their assigned designee.

- A. The appellant must submit a written appeal request from its executive-in-charge to COA's Chief Executive Officer. The appeal request letter must be delivered via nationally recognized overnight carrier (e.g., FedEx or UPS) or by hand delivery with receipt acknowledged in writing, to COA, Attn: Chief Executive Officer, 175 Tri-County Parkway, Suite 175, Cincinnati, Ohio 45246, and must be received by COA no later than close of business (4:00 p.m. EST) ten (10) business days after the date the appellant received notification of the decision by COA not to award an agreement to the appellant for all or some of the services for which the appellant applied.
 - a. The written appeal request must be signed by the appellant's executive-in-charge and must include the following:
 - i. E-mail and business addresses for the executive-in-charge or his/her designee.
 - ii. Phone number for executive-in-charge or his/her designee.
 - iii. Identification of the COA decision under appeal.
 - iv. A detailed explanation of the basis for appellant's appeal.
 - v. All documentation and other materials supporting the appellant's position. Documentation and materials that were not included as part of the original application submission will not be considered by COA in the appeals process (at either the COA Staff Hearing or by the Appeals Committee or Board).
- B. COA Staff Hearing
 - a. A panel of COA staff who were not directly involved in making the decision which is being appealed will convene to review appellant's appeal request (a "COA Staff Hearing"), within ten (10) business days after the close of appeal submission period. The appellant does not have a right to be present at the COA Staff Hearing.
 - b. Upon determination of a decision by the panel, COA will e-mail the appellant a letter identifying the decision.
- C. COA Board Hearing
 - a. No request for an appeal hearing shall be honored by the COA Board of Trustees (the

- “Board”) unless the appellant has first fully complied with the COA Staff Hearing process.
- b. An appellant not satisfied with the outcome of the COA Staff Hearing as detailed above, may then request an appeal hearing before the Board.
 - c. The appeal request letter must be delivered via nationally recognized overnight carrier (e.g., FedEx or UPS) or by hand delivery with receipt acknowledged in writing, to COA, Attn: Chief Executive Officer, 175 Tri-County Parkway, Suite 175, Cincinnati, Ohio 45246, and must be received by COA no later than close of business (4:00 p.m. EST) five (5) business days after the date that appellant received notification of the outcome of the COA Staff Hearing. The appeal request must be in writing and signed by the appellant’s executive-in-charge and must include: (i) the address, phone and e-mail contact information for the applicant’s executive-in-charge, and (ii) identification of the COA Staff Hearing decision under appeal.
- D. The Finance Committee of the Board shall serve as the Appeals Committee of the Board unless otherwise approved by the Board.
- a. The Appeals Committee will review the decision in dispute, and will meet with the appellant if deemed necessary by the Appeals Committee, before submitting a recommendation to the Board for final action.
 - b. The Board, at its next regularly scheduled meeting, will review the recommendation of the Appeals Committee and adopt a final course of action. The Board may choose (but is not required) to schedule a special meeting of the Board to consider the Appeals Committee recommendation if time is of the essence. Within ten (10) business days after the meeting, the appellant will be notified of the Board’s decision.
 - c. The decision of the Board will be final and binding. If the Board reverses the decision of the COA Staff Hearing, the Board’s decision will be implemented as soon thereafter as reasonably possible. In no event will the appellant be compensated for any funds lost during the appeals process or entitled to damages of any sort.