



Meeting Date: August 9, 2021  
 Agenda Item No:

**Kitsap County Board of Commissioners**

**Office/Department:** Human Services – Division of Aging and Long Term Care

**Staff Contact:**

Stacey Smith, Administrator, Aging and Long Term Care, 337-5624

Doug Washburn, Human Services Director, 337-4526

**Agenda Item Title:** Revenue Contract, KC-438-21, between Kitsap County and Washington State Department of Social and Health Services (DSHS), Division of Aging and Long Term Support Administration (AL TSA) is a fee for service pass through revenue contract, not to exceed \$250,000 to provide mandatory Caregiver Training for approximately 600 home care aides, who are employed by network subcontracted Home Care agencies. The home care aides provide in-home personal care services to eligible individuals receiving Respite care or Medicaid funded in-home care.

**Recommended Action:** Move that the Board execute Contract KC-438-21 with Washington State Department of Social and Health Services, Division of Aging and Long Term Support Administration.

**Summary:**

This revenue contract with Washington State Department of Social and Health Services, Division of Aging and Long Term Support Administration, for the time period, July 1, 2021- June 30, 2022, provides mandatory Caregiver Training to approximately 600 unduplicated agency home care aides. This fee for service revenue contract is not to exceed \$250,000.

The revenue contract provides reimbursement costs by unit rate, and includes a five percent (5%) administration allowance for the mandatory training required for home care aides employed by one of the five home care agencies that provide in-home personal care services in Kitsap County. The fee for service reimbursement provision is for a vendor service based upon a unit rate, and does not include a budget.

This revenue contract has been recommended by the Kitsap County Division of Aging and Long Term Care.

**Attachments:**

1. Contract Review Sheet
2. KC-438-21 (DSHS Contract # 2169-20165)
3. Debarment

**Fiscal Impact for this Specific Action**

<b>Expenditure required for this specific action:</b>	\$250,000
<b>Related Revenue for this specific action:</b>	\$250,000
<b>Cost Savings for this specific action:</b>	\$0
<b>Net Fiscal Impact:</b>	100% Grant funded
<b>Source of Funds:</b>	WA State Department of Social and Health Services, Division of Aging and Long Term Support Administration

**Fiscal Impact for Total Project**

**Office/Departmental Review & Coordination**

<b>Office/Department</b>	<b>Elected Official/Department Director</b>	
Human Services	Doug Washburn	

**Contract Information**

<b>Contract Number</b>	<b>Date Original Contract or Amendment Approved</b>	<b>Amount of Original Contract Amendment</b>	<b>Total Amount of Amended Contract</b>
KC-438-21	Pending	\$250,000	



# Kitsap County CONTRACT REVIEW SHEET (Chapter 3.56 KCC)

<b>A. CONTRACT INFORMATION</b> <i>(for Contract Signing Authority, see KCC 3.56.075)</i>			
1. Contractor	WA State Department of Social and Health Services, Division of Aging and Long Term Supports Administration		
2. Purpose	To provide mandatory Caregiver Training for approximately 600 home care aides		
3. Contract Amount	\$250,000	Disburse <input type="checkbox"/>	Receive <input checked="" type="checkbox"/>
4. Contract Term	July 1, 2021- June 30, 2022		
5. Contract Administrator	Stacey Smith	Phone	337-5624
<b>Approved:</b>	Doug Washburn	<b>Date</b>	06/25/2021
	Department Director		
<b>B. AUDITOR – Accounting Information</b>			
1. Contract Control No.	KC-438-21		
2. Fund Name	Aging		
3. Payment from-Revenue to CC/Account No.	1901.3380.55		
<b>Reviewer</b>	Dave Schureman	<b>Date</b>	6/29/2021
4. Comments			
<b>C. AUDITOR – Grant Review</b> <i>Signature only required if grant funded contract</i>			
1.	<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	
<b>Reviewer</b>	Dave Schureman	<b>Date</b>	6/29/2021
2. Comments:			
<b>D. ADMINISTRATIVE SERVICES DEPARTMENT – Risk Manager Review</b>			
1.	<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	
<b>Reviewer</b>	Anastasia Johnson	<b>Date</b>	7/19/2021
2. Comments:			
<b>E. ADMINISTRATIVE SERVICES DEPARTMENT – Budget Manager Review</b> <i>Signature required if \$50,000 or more OR if signed by Board of Commissioners (regardless of dollar amount)</i>			
1.	<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	
<b>Reviewer</b>	Aimée Campbell	<b>Date</b>	07/15/2021
2. Comments:			
<b>F. HUMAN RESOURCES – Human Resources Director Review</b> <i>Signature only required if union or employment contract</i>			
1.	<input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	
<b>Reviewer</b>		<b>Date</b>	
2. Comments:			
<b>G. INFORMATION SERVICES – Information Services Director Review</b> <i>Signature only required if technology contract</i>			
1.	<input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	
<b>Reviewer</b>		<b>Date</b>	
2. Comments:			
<b>H. PROSECUTING ATTORNEY</b>			
1.	<input checked="" type="checkbox"/> Approved as to Form*	<input type="checkbox"/> Not Approved as to Form	
<b>Reviewer</b>	Alan L. Miles	<b>Date</b>	2021-07-20
2. Comments:	*Comments to be provided separately.		

**Date Approved by Authorized Contract Signer:** \_\_\_\_\_ **Date** \_\_\_\_\_  
**RETURN SIGNED ORIGINALS TO:** Hannah Shockley, Human Services x3530 @ MS-23

 <p>Washington State Department of Social &amp; Health Services <i>Transforming lives</i></p>	<b>AAA AGREEMENT</b>  <b>CAREGIVER TRAINING</b>	DSHS CONTRACT #: 2169-20165  KC-438-21
This Agreement is by and between the State of Washington Department of Social and Health Services (DSHS) and the Contractor identified below, and is issued pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW.		Program Contract Number  Contractor Contract Number
CONTRACTOR NAME  Kitsap County		CONTRACTOR DBA  Kitsap County Division of Aging & LTC
CONTRACTOR ADDRESS  614 Division St MS23 Pt. Orchard, WA 98366-4676		CONTRACTOR Uniform Business Identifier  182-002-345
CONTRACTOR DSHS Index Number  1076		
CONTRACTOR CONTACT TELEPHONE  (360) 337-5624	CONTRACTOR FAX  (360) 337-5746	CONTRACTOR E-MAIL ADDRESS  sasmith@co.kitsap.wa.us
DSHS ADMINISTRATION  Aging & Long Term Support Admin	DSHS DIVISION Management Services Division	DSHS CONTRACT CODE 1020LS-69
DSHS CONTACT NAME AND TITLE  Tammy Layton Contracts Specialist		DSHS CONTACT ADDRESS  PO Box 45600  Olympia, WA 98504
DSHS CONTACT TELEPHONE  (360)725-2419	DSHS CONTACT FAX  (360)407-0369	DSHS CONTACT E-MAIL ADDRESS  tammy.layton@dshs.wa.gov
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT? No		CFDA NUMBERS
<b>CONTRACT START DATE</b> 07/01/2021	<b>CONTRACT END DATE</b> 06/30/2022	<b>MAXIMUM CONTRACT AMOUNT</b> Fee For Service
<b>ATTACHMENTS.</b> The following Exhibit is attached to and incorporated into this Interlocal Agreement by reference:  Exhibit A – Statement of Work		
This Interlocal Agreement, including all Exhibits and other documents attached or incorporated by reference, contains all of the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this Interlocal Agreement shall be deemed to exist or bind the parties.		
CONTRACTOR SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED
DSHS SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED

## AAA/DSHS GENERAL TERMS AND CONDITIONS

1. **Amendment.** This Agreement, or any term or condition, may be modified only by a written amendment signed by both parties. Only personnel authorized to bind each of the parties shall sign an amendment.
2. **Assignment.** Except as otherwise provided herein, the AAA shall not assign rights or obligations derived from this Agreement to a third party without the prior, written consent of the DSHS Contracts Administrator and the written assumption of the AAA's obligations by the third party.
3. **Client Abuse.** The AAA shall report all instances of suspected client abuse to DSHS, in accordance with RCW 74.34.
4. **Client Grievance.** The AAA shall establish a system through which applicants for and recipients of services under the approved area plans may present grievances about the activities of the AAA or any subcontractor(s) related to service delivery. Clients receiving Medicaid funded services must be informed of their right to a fair hearing regarding service eligibility specified in WAC 388-02 and under the provisions of the Administrative Procedures Act, Chapter 34.05 RCW.
5. **Compliance with Applicable Law.** At all times during the term of this Agreement, the AAA and DSHS shall comply with all applicable federal, state, and local laws, regulations, and rules, including but not limited to, nondiscrimination laws and regulations.
6. **Confidentiality.** The parties shall use Personal Information and other confidential information gained by reason of this Agreement only for the purpose of this Agreement. DSHS and the AAA shall not otherwise disclose, transfer, or sell any such information to any other party, except as provided by law or, in the case of Personal Information except as provided by law or with the prior written consent of the person to whom the Personal Information pertains. The parties shall maintain the confidentiality of all Personal Information and other confidential information gained by reason of this Agreement and shall return or certify the destruction of such information if requested in writing by the party to the Agreement that provided the information.
7. **AAA Certification Regarding Ethics.** By signing this Agreement, the AAA certifies that the AAA is in compliance with Chapter 42.23 RCW and shall comply with Chapter 42.23 RCW throughout the term of this Agreement.
8. **Debarment Certification.** The AAA, by signature to this Agreement, certifies that the AAA is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any Federal department or agency. The AAA also agrees to include the above requirement in all subcontracts into which it enters, resulting directly from the AAA's duty to provide services under this Agreement.
9. **Disputes.** In the event of a dispute between the AAA and DSHS, every effort shall be made to resolve the dispute informally and at the lowest level. If a dispute cannot be resolved informally, the AAA shall present their grievance in writing to the Assistant Secretary for Aging and Long-Term Support Administration. The Assistant Secretary shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute. If the dispute remains unresolved after the Assistant Secretary's determination, either party may request intervention by the Secretary of DSHS, in which event the Secretary's process shall control. The Secretary will make a determination within 45 days. Participation in this dispute process shall precede any judicial or quasi-judicial action and shall be the final administrative remedy available to the parties. However, if the Secretary's determination is not made within 45 days, either party may proceed with judicial or quasi-judicial action without awaiting the Secretary's determination.
10. **Drug-Free Workplace.** The AAA shall maintain a work place free from alcohol and drug abuse.
11. **Entire Agreement.** This Agreement including all documents attached to or incorporated by reference,

## AAA/DSHS GENERAL TERMS AND CONDITIONS

contain all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or bind the parties.

12. **Governing Law and Venue.** The laws of the State of Washington govern this Agreement. In the event of a lawsuit by the AAA against DSHS involving this Agreement, venue shall be proper only in Thurston County, Washington. In the event of a lawsuit by DSHS against a County AAA involving this Agreement, venue shall be proper only as provided in RCW 36.01.050.
13. **Independent Status.** Except as otherwise provided in Paragraph 26 herein below, for purposes of this Agreement, the AAA acknowledges that the AAA is not an officer, employee, or agent of DSHS or the State of Washington. The AAA shall not hold out itself or any of its employees as, nor claim status as, an officer, employee, or agent of DSHS or the State of Washington. The AAA shall not claim for itself or its employees any rights, privileges, or benefits, which would accrue to an employee of the State of Washington. The AAA shall indemnify and hold harmless DSHS from all obligations to pay or withhold federal or state taxes or contributions on behalf of the AAA or the AAA's employees.
14. **Inspection.** Either party may request reasonable access to the other party's records and place of business for the limited purpose of monitoring, auditing, and evaluating the other party's compliance with this Agreement, and applicable laws and regulations. During the term of this Agreement and for one (1) year following termination or expiration of this Agreement, the parties shall, upon receiving reasonable written notice, provide the other party with access to its place of business and to its records which are relevant to its compliance with this Agreement and applicable laws and regulations. This provision shall not be construed to give either party access to the other party's records and place of business for any other purpose. Nothing herein shall be construed to authorize either party to possess or copy records of the other party.
15. **Insurance.** DSHS certifies that it is self-insured under the State's self-insurance liability program, as provided by RCW 4.92.130, and shall pay for losses for which it is found liable. The AAA certifies that it is self-insured, is a member of a risk pool, or maintains the types and amounts of insurance identified below and shall, prior to the execution of this Agreement by DSHS, provide certificates of insurance to that effect to the DSHS contact on page one of this Agreement.

Commercial General Liability Insurance (CGL) – to include coverage for bodily injury, property damage, and contractual liability, with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The policy shall include liability arising out of premises, operations, independent contractors, products-completed operations, personal injury, advertising injury, and liability assumed under an insured contract. The State of Washington, DSHS, its elected and appointed officials, agents, and employees shall be named as additional insureds.

16. **Maintenance of Records.** During the term of this Agreement and for six (6) years following termination or expiration of this Agreement, both parties shall maintain records sufficient to:
  - a. Document performance of all acts required by law, regulation, or this Agreement;
  - b. Demonstrate accounting procedures, practices, and records that sufficiently and properly document the AAA's invoices to DSHS and all expenditures made by the AAA to perform as required by this Agreement.

For the same period, the AAA shall maintain records sufficient to substantiate the AAA's statement of its organization's structure, tax status, capabilities, and performance.

17. **Medicaid Fraud Control Unit (MFCU).** As required by federal regulations, the Health Care Authority, the Department of Social and Health Services, and any contractors or subcontractors, shall promptly

## AAA/DSHS GENERAL TERMS AND CONDITIONS

comply with all MFCU requests for records or information. Records and information includes, but is not limited to, records on micro-fiche, film, scanned or imaged documents, narratives, computer data, hard copy files, verbal information, or any other information the MFCU determines may be useful in carrying out its responsibilities.

- 18. Order of Precedence.** In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence, in the following order, to:
- a. Applicable federal CFR, CMS Waivers and Medicaid State Plan;
  - b. State of Washington statues and regulations;
  - c. AL TSA Management Bulletins and policy manuals;
  - d. This Agreement; and
  - e. The AAA's Area Plan.
- 19. Ownership of Client Assets.** The AAA shall ensure that any client for whom the AAA or Subcontractor is providing services under this Agreement shall have unrestricted access to the client's personal property. For purposes of this paragraph, client's personal property does not pertain to client records. The AAA or Subcontractor shall not interfere with the client's ownership, possession, or use of such property. Upon termination of this Agreement, the AAA or Subcontractor shall immediately release to the client and/or DSHS all of the client's personal property.
- 20. Ownership of Material.** Material created by the AAA and paid for by DSHS as a part of this Agreement shall be owned by DSHS and shall be "work made for hire" as defined by Title 17 USCA, Section 101. This material includes, but is not limited to: books; computer programs; documents; films; pamphlets; reports; sound reproductions; studies; surveys; tapes; and/or training materials. Material which the AAA uses to perform this Agreement but is not created for or paid for by DSHS is owned by the AAA and is not "work made for hire"; however, DSHS shall have a license of perpetual duration to use, modify, and distribute this material at no charge to DSHS, provided that such license shall be limited to the extent which the AAA has a right to grant such a license.
- 21. Ownership of Real Property, Equipment and Supplies Purchased by the AAA.** Title to all property, equipment and supplies purchased by the AAA with funds from this Agreement shall vest in the AAA. When real property, or equipment with a per unit fair market value over \$5000, is no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS. If the per unit fair market value of equipment is under \$5000, the AAA may retain, sell, or dispose of it with no further obligation. Proceeds from the sale or lease of property that was purchased with revenue accrued under the Case Management/Nursing Services unit rate must be expended in Medicaid TXIX or Aging Network programs.
- When supplies with a total aggregate fair market value over \$5000 are no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS. If the total aggregate fair market value of equipment is under \$5000, the AAA may retain, sell, or dispose of it with no further obligation.
- Disposition and maintenance of property shall be in accordance with 45 CFR Parts 92 and 74.
- 22. Ownership of Real Property, Equipment and Supplies Purchased by DSHS.** Title to property, equipment and supplies purchased by DSHS and provided to the AAA to carry out the activities of this Agreement shall remain with DSHS. When real property, equipment or supplies are no longer needed

## AAA/DSHS GENERAL TERMS AND CONDITIONS

for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS.

Disposition and maintenance of property shall be in accordance with 45 CFR Parts 92 and 74.

**23. Responsibility.** Each party to this Agreement shall be responsible for the negligence of its officers, employees, and agents in the performance of this Agreement. No party to this Agreement shall be responsible for the acts and/or omissions of entities or individuals not party to this Agreement. DSHS and the AAA shall cooperate in the defense of tort lawsuits, when possible. Both parties agree and understand that this provision may not be feasible in all circumstances. DSHS and the AAA agree to notify the attorneys of record in any tort lawsuit where both are parties if either DSHS or the AAA enters into settlement negotiations. It is understood that the notice shall occur prior to any negotiations, or as soon as possible, and the notice may be either written or oral.

**24. Restrictions Against Lobbying.** The AAA certifies to the best of its knowledge and belief that no federal appropriated funds have been paid or will be paid, by or on behalf of the AAA, to any person for influencing or attempting to influence an officer or employee of a federal agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federal appropriated funds have or will be paid for the purposes stated above, the AAA must file a disclosure form in accordance with 45 CFR Section 93.110.

The AAA shall include a clause in all subcontracts restricting subcontractors from lobbying in accordance with this section and requiring subcontractors to certify and disclose accordingly.

**25. Severability.** The provisions of this Agreement are severable. If any court holds any provision of this Agreement, including any provision of any document incorporated by reference, invalid, that invalidity shall not affect the other provisions this Agreement.

**26. Subcontracting.**

- a. The AAA may, without further notice to DSHS; subcontract for those services specifically defined in the Area Plan submitted to and approved by DSHS, except subcontracts with for-profit entities must have prior DSHS approval.
- b. The AAA must obtain prior written approval from DSHS to subcontract for services not specifically defined in the approved Area Plan.
- c. Any subcontracts shall be in writing and the AAA shall be responsible to ensure that all terms, conditions, assurances and certifications set forth in this Agreement are included in any and all client services Subcontracts unless an exception to including a particular term or terms has been approved in advance by DSHS.
- d. Subcontractors are prohibited from subcontracting for direct client services without the prior written approval from the AAA.
- e. When the nature of the service the subcontractor is to provide requires a certification, license or approval, the AAA may only subcontract with such contractors that have and agree to maintain the appropriate license, certification or accrediting requirements/standards.
- f. In any contract or subcontract awarded to or by the AAA in which the authority to determine service recipient eligibility is delegated to the AAA or to a subcontractor, such contract or subcontract shall



## AAA/DSHS GENERAL TERMS AND CONDITIONS

include a provision acceptable to DSHS that specifies how client eligibility will be determined and how service applicants and recipients will be informed of their right to a fair hearing in case of denial or termination of a service, or failure to act upon a request for services with reasonable promptness.

- g. If DSHS, the AAA, and a subcontractor of the AAA are found by a jury or trier of fact to be jointly and severally liable for damages rising from any act or omission from the contract, then DSHS shall be responsible for its proportionate share, and the AAA shall be responsible for its proportionate share. Should the subcontractor be unable to satisfy its joint and several liability, DSHS and the AAA shall share in the subcontractor's unsatisfied proportionate share in direct proportion to the respective percentage of their fault as found by the jury or trier of fact. Nothing in this term shall be construed as creating a right or remedy of any kind or nature in any person or party other than DSHS and the AAA. This term shall not apply in the event of a settlement by either DSHS or the AAA.
- h. Any subcontract shall designate subcontractor as AAA's Business Associate, as defined by HIPAA, and shall include provisions as required by HIPAA for Business Associate contract. AAA shall ensure that all client records and other PHI in possession of subcontractor are returned to AAA at the termination or expiration of the subcontract.

### 27. Subrecipients.

- a. General. If the AAA is a subrecipient of federal awards as defined by 2 CFR Part 200 and this Agreement, the AAA shall:
  - (1) Maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity;
  - (2) Maintain internal controls that provide reasonable assurance that the AAA is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs;
  - (3) Prepare appropriate financial statements, including a schedule of expenditures of federal awards;
  - (4) Incorporate 2 CFR Part 200, Subpart F audit requirements into all agreements between the Contractor and its Subcontractors who are subrecipients;
  - (5) Comply with the applicable requirements of 2 CFR Part 200, including any future amendments to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) Circular or regulation; and
  - (6) Comply with the Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39. (Go to <https://ojp.gov/about/offices/ocr.htm> for additional information and access to the aforementioned Federal laws and regulations.)
- b. Single Audit Act Compliance. If the AAA is a subrecipient and expends \$750,000 or more in federal awards from all sources in any fiscal year, the AAA shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the AAA shall:

## AAA/DSHS GENERAL TERMS AND CONDITIONS

- (1) Submit to the DSHS contact person the data collection form and reporting package specified in 2 CFR Part 200, Subpart F, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor;
- (2) Follow-up and develop corrective action for all audit findings; in accordance with 2 CFR Part 200, Subpart F; prepare a "Summary Schedule of Prior Audit Findings" reporting the status of all audit findings included in the prior audit's schedule of findings and questioned costs.

c. **Overpayments.** If it is determined by DSHS, or during the course of the required audit, that the AAA has been paid unallowable costs under this Agreement, DSHS may require the AAA to reimburse DSHS in accordance with 2 CFR Part 200.

- (1) For any identified overpayment involving a subcontract between the AAA and a tribe, DSHS agrees it will not seek reimbursement from the AAA, if the identified overpayment was not due to any failure by the AAA.

**28. Survivability.** The terms and conditions contained in this Agreement, which by their sense and context, are intended to survive the expiration of the particular agreement shall survive. Surviving terms include, but are not limited to: Confidentiality, Disputes, Inspection, Maintenance of Records, Ownership of Material, Responsibility, Termination for Default, Termination Procedure, and Title to Property.

**29. Contract Renegotiation, Suspension, or Termination Due to Change in Funding.** If the funds DSHS relied upon to establish this Contract or Program Agreement are withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, after the effective date of this contract but prior to the normal completion of this Contract or Program Agreement:

a. The Contract or Program Agreement may be renegotiated under the revised funding conditions.

b. At DSHS's discretion, DSHS may give notice to the AAA to suspend performance when DSHS determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this contract.

- (1) During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.

(2) When DSHS determines that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to DSHS informing DSHS whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.

(3) If the AAA's proposed resumption date is not acceptable to DSHS and an acceptable date cannot be negotiated, DSHS may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the retroactive date of termination.

c. DSHS may immediately terminate this Contract by providing written notice to the AAA. The termination shall be effective on the date specified in the termination notice. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty shall accrue to DSHS in the event the termination option in this section is exercised.

**30. Termination for Convenience.** The Contracts Administrator may terminate this Agreement or any in

## AAA/DSHS GENERAL TERMS AND CONDITIONS

whole or in part for convenience by giving the AAA at least thirty (30) calendar days' written notice. The AAA may terminate this Agreement for convenience by giving DSHS at least thirty (30) calendar days' written notice addressed to: Central Contract Services, PO Box 45811, Olympia, Washington 98504-5811.

### 31. Termination for Default.

- a. The Contracts Administrator may terminate this Agreement for default, in whole or in part, by written notice to the AAA, if DSHS has a reasonable basis to believe that the AAA has:
  - (1) Failed to meet or maintain any requirement for contracting with DSHS;
  - (2) Failed to perform under any provision of this Agreement;
  - (3) Violated any law, regulation, rule, or ordinance applicable to this Agreement; and/or
  - (4) Otherwise breached any provision or condition of this Agreement.
- b. Before the Contracts Administrator may terminate this Agreement for default, DSHS shall provide the AAA with written notice of the AAA's noncompliance with the agreement and provide the AAA a reasonable opportunity to correct the AAA's noncompliance. If the AAA does not correct the AAA's noncompliance within the period of time specified in the written notice of noncompliance, the Contracts Administrator may then terminate the agreement. The Contracts Administrator may terminate the agreement for default without such written notice and without opportunity for correction if DSHS has a reasonable basis to believe that a client's health or safety is in jeopardy.
- c. The AAA may terminate this Agreement for default, in whole or in part, by written notice to DSHS, if the AAA has a reasonable basis to believe that DSHS has:
  - (1) Failed to meet or maintain any requirement for contracting with the AAA;
  - (2) Failed to perform under any provision of this Agreement;
  - (3) Violated any law, regulation, rule, or ordinance applicable to this Agreement; and/or
  - (4) Otherwise breached any provision or condition of this Agreement.
- d. Before the AAA may terminate this Agreement for default, the AAA shall provide DSHS with written notice of DSHS' noncompliance with the Agreement and provide DSHS a reasonable opportunity to correct DSHS' noncompliance. If DSHS does not correct DSHS' noncompliance within the period of time specified in the written notice of noncompliance, the AAA may then terminate the Agreement.

### 32. Termination Procedure. The following provisions apply in the event this Agreement is terminated:

- a. The AAA shall cease to perform any services required by this Agreement as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination which are related to the transfer of clients, distribution of property, and termination of services.
- b. The AAA shall promptly deliver to the DSHS contact person (or to his or her successor) listed on the first page this Agreement, all DSHS assets (property) in the AAA's possession, including any material created under this Agreement. Upon failure to return DSHS property within ten (10) working days of the Agreement termination, the AAA shall be charged with all reasonable costs of recovery, including transportation. The AAA shall take reasonable steps to protect and preserve any property of DSHS that is in the possession of the AAA pending return to DSHS.

## AAA/DSHS GENERAL TERMS AND CONDITIONS

- c. DSHS shall be liable for and shall pay for only those services authorized and provided through the effective date of termination. DSHS may pay an amount mutually agreed by the parties for partially completed work and services, if work products are useful to or usable by DSHS.
- d. If the Contracts Administrator terminates this Agreement for default, DSHS may withhold a sum from the final payment to the AAA that DSHS determines is necessary to protect DSHS against loss or additional liability. DSHS shall be entitled to all remedies available at law, in equity, or under this Agreement. If it is later determined that the AAA was not in default, or if the AAA terminated this Agreement for default, the AAA shall be entitled to all remedies available at law, in equity, or under this Agreement.

- 33. Treatment of Client Property.** Unless otherwise provided in the applicable Agreement, the AAA shall ensure that any adult client receiving services from the AAA under this Agreement has unrestricted access to the client's personal property. The AAA shall not interfere with any adult client's ownership, possession, or use of the client's property. The AAA shall provide clients under age eighteen (18) with reasonable access to their personal property that is appropriate to the client's age, development, and needs. Upon termination or completion of this Agreement, the AAA shall promptly release to the client and/or the client's guardian or custodian all of the client's personal property. This section does not prohibit the AAA from implementing such lawful and reasonable policies, procedures and practices as the AAA deems necessary for safe, appropriate, and effective service delivery (for example, appropriately restricting clients' access to, or possession or use of, lawful or unlawful weapons and drugs).
- 34. Waiver.** Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Agreement unless amended as set forth in Section 1, Amendment. Only the Contracts Administrator or designee has the authority to waive any term or condition of this Agreement on behalf of DSHS.

## SPECIAL TERMS AND CONDITIONS

### 1. Definitions.

- a. "AAA" or "Contractor" shall mean the Area Agency on Aging that is a party to this agreement, and includes the AAA's officers, directors, trustees, employees and/or agents unless otherwise stated in this Agreement. For purposes of this Agreement, the AAA or agent shall not be considered an employee of DSHS
- b. "Agreement" means this Agreement, including all documents attached or incorporated by reference.
- c. "Allocable costs" are those costs which are chargeable or assignable to a particular cost objective in accordance with the relative benefits received by those costs.
- d. "Allowable costs" are those costs necessary and reasonable for proper and efficient performance of this Agreement and in conformance with this Agreement. Allowable costs under federal awards to local or tribal governments must be in conformance with Office of Management and Budget (OMB) Circular A-87, Cost Principles for State, Local and Indian Tribal Governments; allowable costs under federal awards to non-profit organizations must be in conformance with OMB Circular A-122, Cost Principles for Non-Profit Organizations.
- e. "Area Plan" means the document submitted by the AAA to DSHS for approval every four years, with updates every two years, which sets forth goals, measurable objectives, outcomes, units of service, and identifies the planning, coordination, administration, social services and evaluation of activities to be undertaken by the AAA to carry out the purposes of the Older Americans Act, the Social Security Act, the Senior Citizens Services Act, or any other statute for which the AAA receives funds.
- f. "Assignment" means the act of transferring to another the rights and obligations under this Agreement.
- g. "Business Associate" means a Business Associate as defined in 45 CFR 160.103, who performs or assists in the performance of an activity for or on behalf of the Covered Entity that involves the use or disclosure of protected health information (PHI). Any reference to Business Associate under this Agreement includes Business Associate's employees, agents, officers, subcontractors, third party contractor's, volunteers, or directors.
- h. "CFR" means Code of Federal Regulations. All references in this Agreement to the CFR shall include any successor, amended, or replacement regulation.
- i. "Client" means an individual that is eligible for or receiving services provided by the AAA in connection with this Agreement.
- j. "Covered Entity" means DSHS, a Covered Entity as defined in 45 CFR 160.103.
- k. "Contracts Administrator" means the manager, or successor, of Central Contract Services or successor section or office.
- l. "Debarment" means an action taken by a Federal official to exclude a person or business entity from participating in transactions involving certain federal funds.
- m. "Designated Record Set" means a group of records maintained by or for the Covered Entity that is the medical and billing records about the individuals or the enrollment, payment, claims adjudication, and case or medical management records, used in whole or part by or for the Covered Entity to make decisions about individuals.

## SPECIAL TERMS AND CONDITIONS

- n. "DSHS" or "the Department" means the state of Washington Department of Social and Health Services and its employees and authorized agents.
- o. "Data Universal Number System (DUNS) Number" means– a unique nine-digit identification number provided by Dun & Bradstreet (D&B). It is used by the Federal government to identify related organizations that are receiving funding under grants and cooperative agreements, and to provide consistent name and address data for electronic grant application systems.
- p. "Equipment" means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5000 or more per unit.
- q. "HIPAA" means the Health Information Portability and Accountability Act of 1996, as codified at 42 USCA 1320d-d8.
- r. "Individual" means the person who is the subject of PHI and includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- s. "Older Americans Act" refers to P.L. 106-501, 106th Congress, and any subsequent amendments or replacement statutes thereto.
- t. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- u. "PHI" means protected health information and is information created or received by Business Associate from or on behalf of Covered Entity that relates to the provision of health care to an individual; the past, present, or future physical or mental health or condition of an individual; or past, present or future payment for provision of health care to an individual. 45 CFR 160 and 14. PHI includes demographic information that identifies the individual or about which there is reasonable basis to believe, can be used to identify the individual. 45 CFR 160.103. PHI is information transmitted, maintained, or stored in any form or medium. 45 CFR 164.501. PHI does not include education records covered by the Family Educational Right and Privacy Act, as amended, 20 USCA 1232g(a)(4)(b)(iv).
- v. "RCW" means the Revised Code of Washington. All references in this Agreement to RCW chapters or sections shall include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at <http://slc.leg.wa.gov/>.
- w. "Real Property" means land, including land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.
- x. "Regulation" means any federal, state, or local regulation, rule, or ordinance.
- y. "Subcontract" means any separate agreement or contract between the AAA and an individual or entity ("Subcontractor") to perform all or a portion of the duties and obligations that the Contractor is obligated to perform pursuant to this Agreement.
- z. "Subcontractor" means an individual or entity (including its officers, directors, trustees, employees, and/or agents) with whom the AAA contracts to provide services that are specifically defined in the Area Plan or are otherwise approved by DSHS in accordance with this Agreement.
- aa. "Subrecipient" means a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary

## SPECIAL TERMS AND CONDITIONS

of such a program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

bb. "Supplies" means all tangible personal property other than equipment as defined herein.

cc. "WAC" means the Washington Administrative Code. All references in this Agreement to WAC chapters or sections shall include any successor, amended, or replacement regulation. Pertinent WAC chapters or sections can be accessed at <http://slc.leg.wa.gov/>

**2. Statement of Work.** The AAA shall provide the services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth in the attached Statement of Work, Exhibit A.

**3. Billing and Payment.**

a. Billing. DSHS shall pay to the AAA all allowable and allocable costs incurred as evidenced by proper invoice by the AAA submitted to DSHS on a monthly basis in accordance with the rates established in Exhibit A. The AAA shall request payment using forms as designated by DSHS. DSHS shall pay the AAA upon acceptance by DSHS of properly-completed invoices and approval of required reports.

b. Payment. DSHS shall pay the AAA at the rates established in Exhibit A for the satisfactory performance of all work set forth in the Statement of Work. If this Agreement is terminated, DSHS shall only pay for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

If the AAA claims and is reimbursed for costs under this Agreement which DSHS later finds were claimed in error or not allowable costs under the terms of this Agreement, DSHS shall recover those costs and the AAA shall fully cooperate during the recovery.

DSHS shall not make any payments in advance or anticipation of the delivery of services to be provided pursuant to this Agreement. Unless otherwise specified in this Agreement, DSHS shall not pay any claims for payment for services submitted more than forty-five (45) days after completion of the contract period. The AAA shall not bill DSHS for services performed under this Agreement, and DSHS shall not pay the AAA, if the AAA has charged or will charge the State of Washington or any other party under any other contract or agreement for the same services.

c. Rate Changes. All rates are subject to change and do not require an amendment to this contract

**4. Confidentiality.** In addition to General Terms and Conditions Confidentiality language, the AAA or its Subcontractors may disclose information to each other, to DSHS, or to appropriate authorities, for purposes directly connected with the services provided to the client. This includes, but is not limited to, determining eligibility, providing services, and participation in disputes, fair hearings or audits. The AAA and its Subcontractors shall disclose information for research, statistical, monitoring and evaluation purposes conducted by appropriate federal agencies and DSHS.

Statement of Work

1. The Contractor shall reimburse home care agencies for worker wages for class time spent in required caregiver training using the rates published in Home Care Agency Vendor Rate Management Bulletins.
2. DSHS shall reimburse the Contractor at the following reimbursement rates and billable hours, one time upon successful completion of the class (unless excepted below), for agency workers that will provide personal care to DSHS clients:
  - a. Reimbursement Rates
    - (1) Agency Worker wages for class time will be reimbursed at the rates prescribed in Management Bulletins and calculated in the BARS forms for the correct time period. Rates typically change in January and July of each year.
  - b. Billable Wage Hours
    - (1) Orientation
      - (a) A maximum of 2 hours for each new worker.
    - (2) Safety training
      - (a) A maximum of 3 hours for each new worker.
    - (3) Seventy-hour basic training
      - (a) A maximum of 70 hours basic training for each new long-term care worker to become a home care aide.
      - (b) If a worker completes 70 hour of basic training prior to the availability of COVID training, and was not eligible for CE training, up to 3 hours of COVID training class time may be billed that is outside the typical allowances and timeframes for training reimbursement.
      - (c) If a worker does not complete 70 hours of basic training prior to the availability of COVID training, up to 3 hours of COVID training class time may be billed that is outside the typical allowances and timeframes for training reimbursement.
      - (d) Up to 3 hours of COVID training can be billed back to July 1, 2021, based on the class time rates for the applicable training dates.
      - (e) Portions of incomplete basic training hours may be billed to AAAs if training was interrupted by the COVID shutdown.
    - (4) Continuing Education
      - (a) A maximum of 12 hours for Continuing Education per birthday year for each continuing worker. If the first renewal period is less than a full year from the date of certification, no continuing education will be due for the first renewal period.
      - (b) Home care agencies can bill AAAs for worker CE class time hours that were completed after their birthday due date starting back to July 1, 2021 and continuing through the Governor's proclamation date or otherwise notified via Management Bulletin.



- (c) 3 hours of Continuing Education may be completed in compliance with COVID related caregiver training policy, management bulletin and/or state requirements.
- (d) If a worker has already completed CE for the year prior to the availability of the COVID training, up to 3 hours of COVID training class time may be billed that is outside the typical allowances and timeframes for training reimbursement.
- (e) If a worker has not completed their required 12 hours prior to availability of COVID training, up to 3 hours can be part of their regular 12 hours of CE.
- (f) Up to 3 hours of COVID training can be billed back to July 1, 2021, based on the class time rates for the applicable training dates.

(5) Nurse Delegation Training for Nursing Assistants

- (a) A maximum of 9 hours for Nurse Delegation Training for Nursing Assistants, classroom or self-study.
- (b) A maximum of 3 hours for Nurse Delegation for Nursing Assistants: Special Focus on Diabetes self-study course.

- 3. DSHS shall reimburse the Contractor an administrative fee of 5% of the amount of class time for home care agency workers.
- 4. The Contractor shall provide reimbursements according to the details above or according to the most recent management bulletin timeframes and flexibilities.



U.S. Department of Health & Human Services

# Office of Inspector General

U.S. Department of Health & Human Services

Report #, Topic, Keyword..

Advanced

[About OIG](#)

[Reports & Publications](#)

[Fraud](#)

[Compliance](#)

[Exclusions](#)

[Newsroom](#)

[Careers](#)


Home > Exclusions

Visit our [tips page](#) to learn how to best use the Exclusions Database. If you experience technical difficulties, please email the webmaster at [webmaster@oig.hhs.gov](mailto:webmaster@oig.hhs.gov).

## Exclusions Search Results: Entities

No Results were found for

- ✦ Washington State Department of Social and Health Services

 If no results are found, this individual or entity (if it is an entity search) is not currently excluded. Print this Web page for your documentation

[Search Again](#)

Search conducted 6/23/2021 6:28:53 PM EST on OIG LEIE Exclusions database.  
Source data updated on 6/8/2021 9:00:00 AM EST

[Return to Search](#)