



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

**REQUEST FOR PROPOSAL (RFP)**

**RFP: 004-19**

**Adult Day Service  
Elderly Services Program**

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

**Proposal Due Date: August 30, 2019**

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## Section One: General Information

### Bid Overview

Council on Aging of Southwestern Ohio (COA) is accepting proposals from qualified Bidders interested in contracting with COA to provide adult day services for older adults through the Elderly Services Program. This RFP is for the provision of furnishing adult day services to clients residing in Butler, Clinton, Hamilton and Warren Counties.

The goal of this RFP is to attract the highest quality providers for the lowest cost who can meet the demand for services.

The contract period is October 1, 2019 to September 30, 2022, with two (2) additional one (1) year renewable options.

All Bidders must meet the Conditions of Participation, Service Specifications, and all terms and conditions within this document, including all Appendices and Attachments, if selected to receive an Agreement. Please read this document in its entirety.

### Important Dates

| Request For Proposal Number                    | Proposal Name                                      |
|------------------------------------------------|----------------------------------------------------|
| RFP 004-19                                     | Adult Day Service                                  |
| Important Dates                                |                                                    |
| Last Day to Submit Questions                   | Wednesday, August 7 <sup>th</sup> , 2019           |
| Last Day for COA to Answer Questions Submitted | Wednesday, August 14 <sup>th</sup> , 2019          |
| Proposal Due Date                              | Friday, August 30 <sup>th</sup> , 2019 by 12pm EST |
| Estimated Award Date                           | The week of September 23 <sup>rd</sup> , 2019      |
| Contract Start Date                            | October 1 <sup>st</sup> , 2019                     |

All questions regarding the RFP must be put in writing and submitted to:

**[provider\\_services@help4seniors.org](mailto:provider_services@help4seniors.org)**

Submitted questions must reference: **RFP 004-19: Adult Day Service**

Only questions submitted in writing to this e-mail address will receive a response. All questions must be submitted no later than August 7<sup>th</sup>, 2019. Responses to questions submitted will be posted on COA's website at <https://www.help4seniors.org/Service-Providers/Elderly-Service-Program/ESP-Request-Proposals.aspx> no later than August 14<sup>th</sup>, 2019.

## **Proposal Delivery**

Each sealed submission must include **one (1) signed original, five (5) copies of the 2<sup>nd</sup> and 3<sup>rd</sup> level evaluation responses found in Section Six, and one (1) flash drive** containing an electronic version (\*.doc or \*.pdf) of the original proposal document with all narratives and forms scanned as a single document. For confidentiality purposes, on the electronic version, financial information can be marked “proprietary” or “confidential,” scanned, and included as a separate file.

Please have the signed original copy of your proposal divided into sections based on the Proposal Submission Requirements found in Section Four of this RFP, and presented in a three ring binder. COA also requests the five copies of the bidder’s 2<sup>nd</sup> and 3<sup>rd</sup> level evaluation responses include all of the narrative responses and any supporting documentation. The 2<sup>nd</sup> and 3<sup>rd</sup> level evaluation requirements can be found on pages 15 through 20 of this RFP.

**All sealed bids must be received no later than NOON Eastern Standard Time on Friday August 30<sup>th</sup>, 2019.** 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. Sealed bids must be sent to:

Council on Aging of Southwestern Ohio  
Attention: Randy Quisenberry  
175 Tri County Parkway  
Cincinnati, Ohio 45246

**No late bids will be accepted.** COA is not responsible for, and will not open or consider, proposals 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. Please be aware that Thursday, August 15, 2019 the COA offices will be closed from 8:00 A.M. until 12:00 P.M.

## **Integrity of the Procurement Process**

During the procurement process, bidders interested in responding to the solicitation may submit questions via email only to the Provider Services team regarding procedural matters related to the RFP, or requests for clarification or modification of this solicitation, no later than the due date and time as set forth in the RFP. Questions or requests submitted after the due date and time will not be answered.

Prospective service providers shall not contact any Council on Aging personnel (with the exception of the Provider Services team), board or advisory council members, or program funders, including elected officials, for meetings, conferences, or discussions that are specifically related to this RFP at any time prior to any Notice of Intent to Award a contract. Unauthorized contact with any Council on Aging personnel, board or advisory council members, or its funders, including elected officials, may be cause for rejection of the vendor’s proposal.

## **Agency and Program Background**

COA was established 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 (PSA-1) in the State of Ohio.

COA, providing service to older adults for more than 40 years, is Southwestern Ohio's AAA. Our mission: Enhance lives by assisting people to remain independent through a range of quality services. These include advocacy, caregiver support, counseling, health promotion, home and community-based services, legal assistance, nutrition, senior centers, and transportation.

## Section Two: Service Delivery

### Adult Day Service

As a part of COA's services, adult day services are offered to eligible seniors through the Elderly Services Programs in Butler, Clinton, Hamilton and Warren Counties. Adult day services are community-based group programs designed to meet the needs of functionally and/or cognitively impaired adults through an individual plan of care. These structured, comprehensive programs provide a variety of health, social, and other related support services such as personal care and socialization in a protective setting during any part of a day, but less than 24-hour care. Adult day centers are designed to serve adults who are physically impaired or mentally confused and may require supervision, increased social opportunities, or assistance with personal care or other daily living activities.

Adult day centers generally operate programs during normal business hours, five days a week. Some programs offer services in the evenings and on weekends.

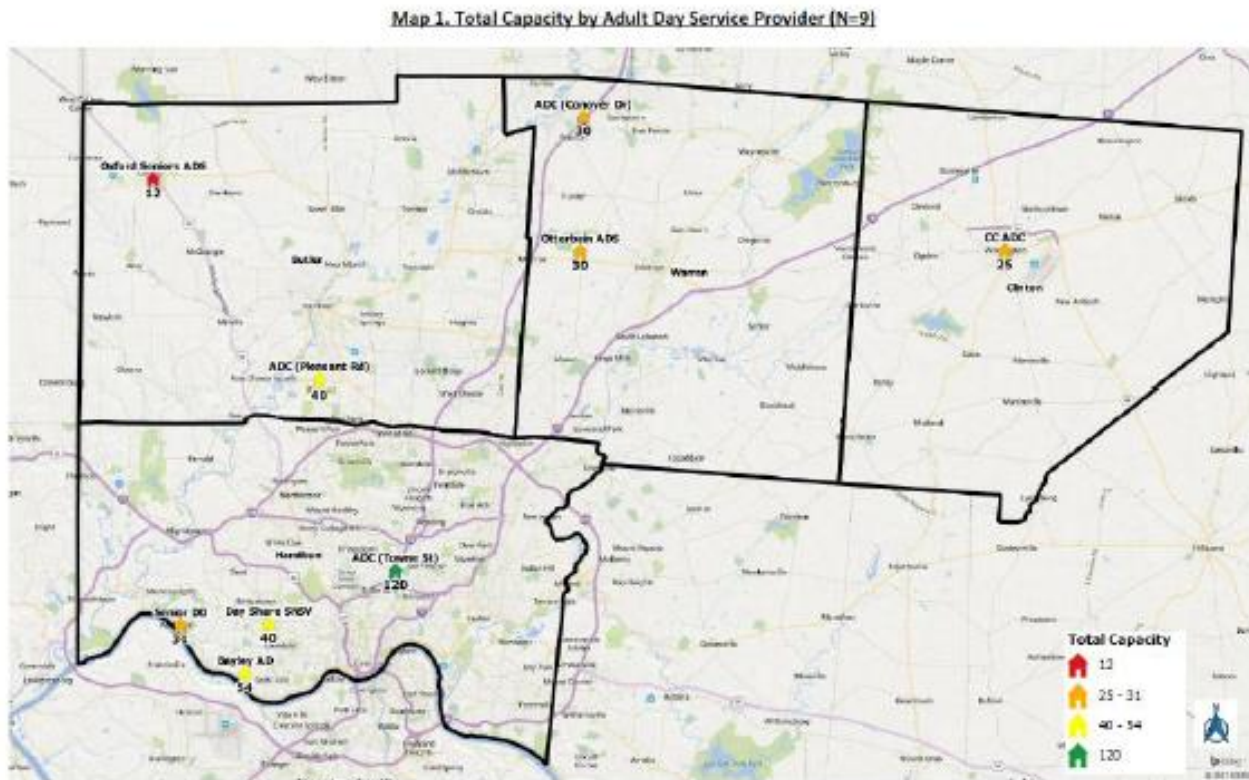
COA ESP providers furnished adult day services to clients residing in Butler, Clinton, Hamilton and Warren Counties as outlined in **Table 1**.

**Table 1:** Clients served for Adult Day Service by County (For Information Only)

| Adult Day Service by County          |                                  |               |
|--------------------------------------|----------------------------------|---------------|
| January 1, 2018 to December 31, 2018 |                                  |               |
| County                               | Service                          | Total Clients |
| Hamilton                             | Adult Day Service                | 168           |
| Hamilton                             | Adult Day Service Transportation | 92            |
| Clinton                              | Adult Day Service                | 13            |
| Clinton                              | Adult Day Service Transportation | 0             |
| Butler                               | Adult Day Service                | 51            |
| Butler                               | Adult Day Service Transportation | 9             |
| Warren                               | Adult Day Service                | 56            |
| Warren                               | Adult Day Service Transportation | 9             |

COA is committed to the Adult Day Service program and seeks to expand options for clients residing in the ESP program area. **Table 2** displays the location and capacity of the existing provider network.

**Table 2:** Locations and Capacity of Current Network Adult Day Providers



**Abbreviations Key:**

- ADC (Towne St) = Active day of Cincinnati (Towne St)
- ADC (Pleasant Rd) = Active Day of Fairfield
- ADC (Conover Dr) = Active Day of Franklin
- Bayley AD = Bayley Adult Day
- CC ADC = Clinton County Adult Day Center
- Day Share SNSV = Day Share Senior Services
- Otterbein ADS = Otterbein Lebanon Adult Day Services
- Oxford Seniors ADS = Oxford Seniors Community Adult Day Services
- Senior DD = Senior Deserved Day

A list of the zip codes in each of the various zones can be found on COA's website here

<https://www.help4seniors.org/Service-Providers/Elderly-Service-Program/Current-ESP-Provider-Information.aspx>, in the right hand margin in orange. Please note that Clinton County only has one zone so all

zip codes are included in the Clinton County Central zone.

The Conditions of Participation and Service Specifications are located in **Attachments 2-6**.

## **Section Three: How this RFP is different from previous RFPs**

### **Service Specification Changes**

The service specification for Adult Day Services (ADS) has been updated. Pending approval by each county Advisory Council, the specification will be effective October 1, 2019.

Adult Day Service Specification changes:

1. Updated the ADS unit definition to reflect changes resulting from CareDirector.
2. The unit of service for ADS transportation will no longer be captured based on mileage. The new ADS unit of transportation is defined as a one-way trip. The unit rate for transportation should include the cost of transporting the client one-way from each of the respective zones you bid upon. It is an industry standard that ADS transportation trips include multiple passengers.
3. Eliminated the provider requirement of updates to the CM every 3 months.
4. Elimination of the mandatory number of hours a RN is required to be on-site.
5. Allow ADS providers to subcontract with any COA contracted ESP, PASSPORT or Title III transportation provider.
6. Expanded opportunities for ADS providers to hire personal care staff by updating qualifications and training requirements.

### **Service Qualifications and Requirements**

Adult Day Service Providers can meet the meal and snack requirement by 1) using the COA contracted caterer, or 2) be a Self-Producer who is licensed by the Ohio Department of Agriculture and meets the specifications outlined in **Attachments 5 and 6**.

Adult Day Service Providers must meet the transportation service as outlined in **Attachment 4**.

### **Contract Changes**

Any bidder whose proposal successfully completes the evaluation process, but does not have a current contract with COA, is subject to a pre-certification review prior to receiving an adult day service agreement. All Adult Day Service Providers are required to use COA's care management and provider management platform - CareDirector.

### **Bid Rates**

Adult Day Service rates for years 1-3 with renewable options for years 4 and 5 are requested for this RFP. See Bid Rate Sheet (**Attachment 1**), and Section Five: Pricing of this RFP for instructions.

## Section Four: Proposal Submission Requirements

A complete bid proposal includes the following:

### 1) Bid Forms and Documentation

- ☐ Bidder's Information Form (Section 7)
- ☐ Certificate of Secretary of State (current and in good standing)
- ☐ Current Bureau of Workers' Compensation Certificate (Section 8)
- ☐ Certificate of Insurance evidencing the Bidder's liability meets the proper requirements (Section 8)
- ☐ Bidder's Certification of Payment of Personal Property Tax (Section 7)
- ☐ Debarment, Suspension, Ineligibility and Exclusion Certification (Section 7)
- ☐ Non-Collusion Affidavit (Section 7)

### 2) First Level Evaluation

- ☐ Prior year's tax return (including all schedules)
- ☐ Prior year's statement of revenue and expenses
- ☐ 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.
- ☐ Current local health department licenses (Required for all bidders)
- ☐ Current Certificate of Registration with Ohio Department of Agriculture Division of Food Safety (This is required for all bidders not using the COA Contracted Caterer.)
- ☐ Inspection and follow up reports for the previous 2 years that indicate compliance with local, state, and federal food safety requirements for facility.
- ☐ Copy of Dietician's license who approves menu (This is required for all bidders not using the COA Contracted Caterer.)
- ☐ Copy of COA's Dietician letter of approval for meal production (This is required for all bidders not using the COA Contracted Caterer.)

**3) Second Level Evaluation response:**

- ☐ 2<sup>nd</sup> Level Evaluation response and any supporting documentation referenced within the response. Narratives should be no more than two (2) pages.

**4) Third Level Evaluation response:**

- ☐ 3<sup>rd</sup> Level Evaluation response and any supporting documentation referenced within the response. Narratives should be no more than two (2) pages.

**5) Fourth Level Evaluation response:**

- ☐ Bid Rate Sheets for years 1 through 3, including optional renewals for years 4 and 5 (Attachments 1-1e)

**6) Proposal submission format:**

- a) Each sealed submission must include **one (1) signed original proposal containing all of the items listed above, five (5) copies of the 2<sup>nd</sup> and 3<sup>rd</sup> level evaluation responses found in Section Six, and one (1) flash drive** containing an electronic version (\*.doc or \*.pdf) of the original proposal document with all narratives and forms scanned as a single document.
- b) The one (1) signed original copy of the proposal should be divided into sections based on the Proposal Submission Requirements outlined above, and presented in a three ring binder.
- c) The five (5) copies of the 2<sup>nd</sup> and 3<sup>rd</sup> level evaluation responses should include all of the narrative responses and any supporting documentation. The 2<sup>nd</sup> and 3<sup>rd</sup> level evaluation requirements can be found on pages 15 through 20 of this RFP. Please note that the narrative responses should be no more than two (2) pages for each evaluation section.

## Section Five: Pricing

### Instructions:

- Bidders are required to complete the 5 worksheets - Year 1 Bid Rates (Attachment 1a), Year 2 Bid Rates (Attachment 1b), Year 3 Bid Rates (Attachment 1c), Year 4 Option to Renew (Attachment 1d), and Year 5 Option to Renew (Attachment 1e). **Multiple site providers: please complete the 5 required rate sheets for each site applying to provide adult day services.**

|                  |                                                                       |
|------------------|-----------------------------------------------------------------------|
| Rate Definitions | ADS Unit of Service Rate= less than 4 hours of ADS per day            |
|                  | ADS with Transportation Unit of Service Rate = one-way transportation |

- Table 1: ADS Enhanced/Intensive Services:** Please enter the bid rate for the total cost per each type of Adult Day Service you wish to provide for each zone and/or county you wish to serve. You may bid on one or more zones and/or counties. The zone refers to where the client resides, not the physical location of the adult day center. The zone is based on the zip code and the county of residence for the client. Only those adult day providers who are contracted to accept referrals in a zone, will be permitted to deliver services within such zone.

Bidders may submit proposals to provide one or more adult day services in one or more zones as noted on Attachments 1a-1e. Bidders may submit only one (1) Enhanced ADS Service bid rate for each zone and/or county per year. Bidders may submit only one (1) Intensive ADS Service rate for each zone and/or county per year.

For example: If a bidder submits a rate of \$30/unit for Enhanced ADS in Butler County all zones, and also wants to submit a bid rate for Enhanced ADS in Warren County North zone that rate must also be \$30/unit. If that same bidder also offers Intensive ADS Services and submits a rate of \$45/unit for Intensive ADS in Butler County all zones that bidder must also use the \$45/unit rate for Intensive Adult Day Services in Warren County North zone.

- Table 1: ADS Transportation:** Please enter the bid rate for the total cost per one-way trip transportation for each zone and/or county you wish to serve. You may bid on one or more zones and/or counties. The unit rate for transportation should include the cost of transporting the client one-way from each of the respective zones you bid upon. Only those adult day providers who are contracted to accept referrals in a zone, will be permitted to deliver services within such zone.

Bidders may submit proposals to provide one or more adult day services in one or more zones as noted on Attachments 1a-1e. Bidders may submit different one-way transportation rates for each of the zones and/or counties, per each year.

- A list of the zip codes in each of the various zones can be found on COA's website here <https://www.help4seniors.org/Service-Providers/Elderly-Service-Program/Current-ESP-Provider->

[Information.aspx](#), in the right hand margin in orange. Please note that Clinton County only has one zone so all zip codes are included in the Clinton County Central zone.

- **Table 2:** Please enter the number of clients your agency can serve each month. Multiple site providers: please note that this would be site specific as you will need to complete the 5 required rate sheets for each site applying to provide adult day services.

## Section Six: Proposal Evaluation

COA shall award a Service Agreement to the bidder(s) who submit the best bid proposal(s) 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 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 bids have been submitted, opened and reviewed in order to maximize delivery of services consistent with the objectives of the Adult Day Service Program.

COA reserves the right to apply any of the following, if warranted, in COA's sole opinion:

- Negotiate price
- Award to multiple providers
- Eliminate any term or condition that is not advantageous to COA, its clients, or funders
- Set ceiling/maximum rates for services provided resulting from this RFP

Bid proposals will be evaluated based on Bidder's (1) Financial Analysis and Stability, Certificate of Insurance, and Workers Compensation Certificate, Licensing and Food Safety, (2) The Organization and Capabilities Overview, (3) Personnel, Staffing and Training, and (4) Pricing. There are four categories of review identified in the tables below. The first category evaluation determines if the proposal meets the requirements of the RFP - that the organization is financially stable and meets licensing and food safety rules. The second category evaluation is for the organization and capabilities. The third category evaluation is for the Provider's Personnel, Staffing and Training. The fourth category evaluation is based on Pricing. 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 and outside of 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 submitted proposals.

### Scoring of Submission

The committee will base the evaluations on the following criteria:

| Description                                                                                                         | Evaluation Criteria                                                                   |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 1 <sup>st</sup> Category Evaluation- Financial Stability and Licensing                                              | 2-8 points                                                                            |
| 2 <sup>nd</sup> Category Evaluation- The Organization and Capabilities <i>(narratives are limited to two pages)</i> | 1-28 points                                                                           |
| 3 <sup>rd</sup> Category- Personnel, Staffing, and Training <i>(narratives are limited to two pages)</i>            | 0-12 points                                                                           |
| 4 <sup>th</sup> Category Evaluation- Pricing                                                                        | Complete based on requested pricing information, and competitive with other proposals |

## 1<sup>st</sup> Level Evaluation: Financial Stability and Licensing

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

| Number                                                   | Category                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Examples for Scoring                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Points |
|----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| 1. Financial Stability, Insurance, Workers' Compensation | 1. Provides prior year's tax return (including all schedules) and prior year's statement of revenue and expenses.<br>2. Provides 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.<br>3. Provides Certificate of Insurance evidencing Bidder's liability insurance meets proper requirements.<br>4. Provides Current Workers' Compensation Certificate.                                                                                                                                                                                      | <b>Example 1</b> -Financial data not provided or audits contain material findings or unaudited financials show lack of financial stability. Unable to provide Certificate of Insurance and Workers' Compensation Certificate.<br><br><b>Example 4</b> - No material findings present on audited financial reports. Provides current Certificate of Insurance and Workers' Compensation Certificate.                                                                                                                                                                          | 1 or 4 |
| 2. Licensing and Food Safety                             | 1. Provides current local health department license for facility.<br>2. Provides meal producers Certificate of Registration with Ohio Department of Agriculture and any required local health department licenses'.<br>3. Provides inspection and follow up reports for the previous 2 years that indicate compliance with local, state and federal food safety requirements for facility (all bidders) and also for meal producer (all bidders except those using COA Contracted Caterer- Derringer)<br>4. Copy of Dietitian's license who approves menu and Copy of COA's Dietitian letter of approval for meal production (all bidders except those using COA Contracted Caterer- Derringer) | <b>Example 1</b> -Bidder does not have appropriate licensure, letter of approval and inspection reports indicate suspension or withholding action or priority or notice status within the past 2 years. Bidder's inspection reports do not reflect correction of critical violations.<br><br><b>Example 4</b> -Appropriate licensure, letter of approval (as applicable), with no suspension or withholding action in the past 2 years, and no priority or notice status within the past 2 years. Bidder's inspection reports reflect correction of any critical violations. | 1 or 4 |

## 2<sup>nd</sup> Level Evaluation: The Organization and Capabilities Overview

This level of the evaluation will be evaluated using the categories, as shown below. **Narratives should be no more than two (2) pages long.**

| Number                                           | Category                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Examples for Scoring                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Points     |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 1. Experience and Commitment to Aging            | <p>Proposal includes examples of:</p> <ol style="list-style-type: none"> <li>1. Previous history and experience in delivering adult day service for the elderly.</li> <li>2. Programming and services offered at the adult day center.</li> <li>3. Organizational mission that supports care services and supports philanthropic efforts on behalf of low income elderly, contributions to the professional field of aging, and advocacy efforts supporting services and support for the elderly.</li> </ol> | <p><b>Example 0</b>-Proposal does not address delivery of adult day services.</p> <p><b>Example 1</b>-Proposal mentions with little detail history, experience and delivery of adult day services. Proposal does not include company mission or how they support the low income elderly.</p> <p><b>Example 2</b>-Proposal states previous years of experience providing adult day services and provides programming with minimal detail. If no experience with seniors, proposal lists previous social services offered by the organization. Proposal includes company mission and mentions support of low income elderly with no examples given.</p> <p><b>Example 3</b>-Proposal includes recent history providing adult day services. Proposal includes a list of recreational and educational programming and description of transportation services offered to seniors. Proposal includes company mission mentions support with some details for low income elderly.</p> <p><b>Example 4</b>-Proposal includes a comprehensive summary operating an adult day facility serving older adults with the greatest economic and/or social need. Proposal includes description and frequency of recreational and educational programming and a description of transportation service offered to seniors. Proposal includes detailed examples of service to elderly. Proposal includes company mission and thorough details of how they support low income elderly.</p> | <b>0-4</b> |
| 2. Assessments, Activity Plans, Care Conferences | <p>Describe how your agency completes:</p> <ol style="list-style-type: none"> <li>1. Initial Assessments</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                          | <p><b>Example 0</b>-Proposal does not mention completion of assessments, activity plans or care conferences.</p> <p><b>Example 1</b>-Proposal mentions with little</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>0-4</b> |

|                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                   |
|-----------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
|                                                                       | <p>2. Health Assessments</p> <p>3. Activity Plans</p> <p>4. Interdisciplinary care conferences</p>                                                                                                                                                                                                                                                                                                                                           | <p>detail completion of assessments, activity plans and care conferences.</p> <p><b>Example 2</b>-Proposal mentions the agency will complete the initial assessment, health assessment, and activity plan. Proposal states interdisciplinary care conference will be conducted. Timelines are included for all aforementioned activities.</p> <p><b>Example 3</b>-Proposal outlines the components which comprise the initial assessment, health assessment, and activity plan with the frequency for completing all activities. Proposal describes the interdisciplinary care conference process.</p> <p><b>Example 4</b>-Proposal includes a comprehensive outline with the frequency for completion of the initial assessment, health assessment, and activity plan. Proposal describes tracking timelines to ensure compliance. Proposal includes details of the interdisciplinary care conference process. Proposal outlines staff responsible for completing assigned tasks.</p> |                   |
| <p>3. Meals and snacks:<br/>Menu's, client choice and Food Safety</p> | <p>Provide:</p> <p>1. Copy of menu cycle for lunch meals and snacks.</p> <p>2. Documentation of Dietitian approval of menu cycle (all bidders except those using COA Contracted Caterer- Derringer)</p> <p>3. Description of processes allowing for client choice and access to ingredient lists.</p> <p>4. Good Manufacturing Practices as it pertains to food receiving, food handling, and food safety to prevent food borne illness.</p> | <p><b>Example 0</b>-No details provided.</p> <p><b>Example 1</b>-Proposal is missing either menu cycle and/or dietitian approval of menu (as applicable). Proposal only mentions they have a process allowing for client choice and access to ingredient lists. Proposal only mentions they have Good Manufacturing Practices.</p> <p><b>Example 2</b>-Proposal includes copy of menu cycle for lunch/snacks and dietitian approval (as applicable). Proposal includes minimal details of process allowing for client choice and access to ingredient lists. Proposal includes minimal details of their Good Manufacturing Practices.</p> <p><b>Example 3</b>-Proposal includes copy of menu cycle for lunch/snacks and dietitian approval (as applicable). Proposal includes some detail of process allowing for client choice and access to ingredient lists. Proposal includes some details of their Good Manufacturing Practices.</p>                                              | <p><b>0-4</b></p> |

|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |            |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Example 4</b> -Proposal includes copy of menu cycle for lunch/snacks and dietitian approval (as applicable). Proposal includes detailed description of process allowing for client choice and access to ingredient lists. Proposal includes comprehensive details of Good Manufacturing Practices with examples of their procedures.                                                                                                                                                                                                                                                                                                                                                                                                               |            |
| 4. Vehicle Fleet and Maintenance         | <p>Describe your agency' vehicle and fleet maintenance, providing number in fleet (i.e. cars, vans, wheelchair accessible) and maintenance practices.</p> <p>If subcontracting, please describe the process for securing and maintaining quality transportation for clients.</p>                                                                                                                                                                                                                            | <p><b>Example 0</b>-Proposal does not address vehicle fleet or maintenance.</p> <p><b>Example 1</b>-Proposal mentions the number of vehicles in their fleet to deliver services.</p> <p><b>Example 2</b>- Proposal mentions the number and type of vehicles in their fleet to deliver services.</p> <p><b>Example 3</b>-Proposal details the number and type of vehicles in their fleet. Proposal outlines maintenance schedules.</p> <p><b>Example 4</b>-Proposal details the number and type of vehicles in their fleet. Proposal includes vehicle preventative maintenance schedule for fleet of vehicles and wheelchair checks of vehicles.</p>                                                                                                   | <b>0-4</b> |
| 5. Continual Quality Improvement Process | <p>Describe how your Quality Management System:</p> <ol style="list-style-type: none"> <li>1. Incorporates policies, processes and activities which reduce risk, identify weaknesses, and improve all aspects of service delivery.</li> <li>2. Addresses problems in a timely manner.</li> <li>3. Engages and utilizes feedback from clients, employees, management and other stakeholders such as COA.</li> <li>4. Uses standardized data collection tools such as client satisfaction surveys.</li> </ol> | <p><b>Example 0</b>-No details provided.</p> <p><b>Example 1</b>-Proposal mentions they have a quality improvement process.</p> <p><b>Example 2</b>-Proposal mentions quality management policies with no examples/details on how they collect or use data.</p> <p><b>Example 3</b>-Proposal includes quality management policies. Proposal includes some explanation of how they address problems, how they collect data and how they use the data.</p> <p><b>Example 4</b>-Proposal includes thorough quality management policies. Proposal includes multiple examples of how problems are addressed in a timely manner. Proposal includes comprehensive details on how data is collected, who it is collected from, and what data is used for.</p> | <b>0-4</b> |
| 6. Emergency Preparedness                | <p>Describe your company's plan to address:</p> <ol style="list-style-type: none"> <li>1. Food and supply shortages.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                             | <p><b>Example 0</b>-No details provided.</p> <p><b>Example 1</b>-Proposal mentions a plan to address shortages, food safety, failures or emergencies, without details.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>0-4</b> |

|                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |               |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
|                    | <p>2. Food safety concerns. (contamination, failed temperature controls, food recalls).</p> <p>3. Staffing shortages.</p> <p>4. Equipment and vehicle failures.</p> <p>5. Environmental emergencies. (weather, power outages, domestic disturbances).</p>                                                                                                                                                                                                                           | <p><b>Example 2</b>-Proposal mentions, with little detail, their plan to address shortages, food safety, failures and emergency.</p> <p><b>Example 3</b>-Proposal includes description with some detail of plan for addressing staff/food/supply shortages, food safety concerns, equipment and vehicle failures, emergencies.</p> <p><b>Example 4</b>-Proposal contains comprehensive details of company training and onboarding process with respect to food safety. Proposal includes extensive details of their continuity of operations plan with respect to staffing challenges and food/supply shortages, food safety concerns, equipment, vehicle failures, and emergencies to ensure timely completion of deliveries.</p> |               |
| 7. County Presence | <p>Bidder demonstrates:</p> <p>A presence in the county or counties where Bidder intends to provide services. County presence is defined as having a physical office location in the county, hiring employees who reside in the county and/or payment of payroll tax to the county (e.g., percentage of total payroll tax paid to the county), use of local suppliers who are based in the county as demonstrated by the total dollars and/or % of dollars spent in the county.</p> | <p><b>Example 1</b>- Bidder is not physically located in either Butler, Clinton, Hamilton, or Warren County. Bidder demonstrates history of hiring employees residing in the 4 county region.</p> <p><b>Example 4</b>-Bidder has a physical location in either Butler, Clinton, Hamilton, or Warren County. Bidder demonstrates history of hiring employees residing in the 4 county region.</p>                                                                                                                                                                                                                                                                                                                                   | <b>1 or 4</b> |

### 3rd Level Evaluation: Personnel, Staffing, and Training

This level of the evaluation will be evaluated using the categories, as shown below. **Narratives should be no more than two (2) pages long.**

| Number                                                                                                                                                                           | Category                                                                                                                                                                                                                                                                                                                                                                                                          | Examples for Scoring                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Points     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <p>1. Staffing for the adult day site, transportation staff, and tenure in leadership positions.</p> <p><b>Please address ADS staff and transportation staff separately.</b></p> | <p>Describe your organizations:</p> <ol style="list-style-type: none"> <li>1. Strategy to recruit, hire, and retain staff.</li> <li>2. Backup plan in the event a staff member is unable to complete services.</li> <li>3. Retention and tenure in leadership positions.</li> </ol>                                                                                                                               | <p><b>Example 0</b>-No details provided.</p> <p><b>Example 1</b>-Proposal mentions with little detail recruiting methods and staff backup plans.</p> <p><b>Example 2</b>- Proposal mentions recruiting resources used by name and methods of advertising for recruitment. Proposal lists staff available to serve as backup.</p> <p><b>Example 3</b>- Proposal names recruiting resources and methods of advertising for recruitment. Proposal provides minimal explanation of employee retention practices. Proposal includes written backup plan for coverage of services due to staff unavailability.</p> <p><b>Example 4</b>- Proposal contains comprehensive recruiting strategies, frequency of advertising for recruitment and recruiting marketing materials. Proposal mentions staff retention initiatives. Proposal includes written backup plan for coverage of services due to staff unavailability. Bidder Demonstrates retention and tenure in leadership positions.</p> | <b>0-4</b> |
| <p>2. Orientation and Continued Education of Adult Day and Transportation staff</p>                                                                                              | <p>Describe your company's:</p> <ol style="list-style-type: none"> <li>1. Training program that insures new hires are prepared to provide required services according to COA's Adult Day Service and Transportation Service specifications.</li> <li>2. Continuing education of current employees on required services according to COA's Adult Day Service and Transportation Service specifications.</li> </ol> | <p><b>Example 0</b>-No details provided.</p> <p><b>Example 1</b>-Proposal mentions that all staff are trained.</p> <p><b>Example 2</b>-Proposal describes with minimal detail new hire training with timelines. Briefly mentions continuing education.</p> <p><b>Example 3</b>-Proposal outlines training provided to new hires, and education for current staff on program specifications.</p> <p><b>Example 4</b>-Proposal includes specific training strategies to insure staff are skilled and knowledgeable of program specifications (as is relates to their job responsibilities). Proposal includes examples of training materials/training checklist, continuous education opportunities.</p>                                                                                                                                                                                                                                                                                 | <b>0-4</b> |

|                                |                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                   |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| <p>3. Clinical Supervision</p> | <p>Describe your agency's:</p> <ol style="list-style-type: none"> <li>1. Staffing levels</li> <li>2. RN oversight</li> </ol> | <p><b>Example 0</b>-Proposal does not address clinical oversight.</p> <p><b>Example 1</b>-Proposal mentions staff positions with limited detail.</p> <p><b>Example 2</b>-Proposal includes a list of positions employed to deliver services to clients as well as clinical oversight at the adult day facility.</p> <p><b>Example 3</b>-Proposal includes a list of positions employed to deliver services to clients as well as clinical oversight at the adult day facility. Proposal outlines number of staff available on a typical day. Proposal states a Registered Nurse is employed by the agency.</p> <p><b>Example 4</b>-Proposal includes a list of positions employed to deliver services to clients as well as clinical oversight at the adult day facility. Proposals outlines number of staff available on a typical day. Proposal states a Registered Nurse is employed by the agency and details tasks performed by the RN.</p> | <p><b>0-4</b></p> |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|

#### 4<sup>th</sup> Level Evaluation: Pricing

| Number        | Category                                                                                                                                                                                                                                                                          |                                                                                                             |  |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|--|
| 1.<br>Pricing | <ol style="list-style-type: none"><li>1. Does the proposal demonstrate competitive pricing with respect to other proposals received?</li><li>2. Does the proposal have pricing for each type of service for years 1 -3 as well as the renewal options for year 4 and 5?</li></ol> | Price for the entire contract period based on information submitted on Attachment 1-1e Bid Rate Worksheets. |  |

## Section Seven: Required Forms

### Bidder's Identifying Information Form for RFP: 004-19

#### 1. IDENTIFYING INFORMATION

|                                                      |         |                                                                                                                                                                                                                                                                                                                                                                         |         |         |
|------------------------------------------------------|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|
| <b>1. Legal Name of Bidder:</b>                      |         | <b>2. Federal Tax ID #:</b>                                                                                                                                                                                                                                                                                                                                             |         |         |
| <b>3. Doing Business As (d.b.a.) if applicable:</b>  |         |                                                                                                                                                                                                                                                                                                                                                                         |         |         |
| <b>4. Sites doing business in this service area:</b> |         |                                                                                                                                                                                                                                                                                                                                                                         |         |         |
|                                                      | Site #1 | Site #2                                                                                                                                                                                                                                                                                                                                                                 | Site #3 | Site #4 |
| Admin./Director:                                     |         |                                                                                                                                                                                                                                                                                                                                                                         |         |         |
| Street:                                              |         |                                                                                                                                                                                                                                                                                                                                                                         |         |         |
| City, State,<br>& Zip:                               |         |                                                                                                                                                                                                                                                                                                                                                                         |         |         |
| Phone #:                                             |         |                                                                                                                                                                                                                                                                                                                                                                         |         |         |
| FAX #:                                               |         |                                                                                                                                                                                                                                                                                                                                                                         |         |         |
| Email address:                                       |         |                                                                                                                                                                                                                                                                                                                                                                         |         |         |
| <b>5. Ownership</b>                                  |         | <div style="display: flex; justify-content: space-between;"> <ul style="list-style-type: none"> <li>• Private</li> <li>• Charitable/Religious</li> </ul> <ul style="list-style-type: none"> <li>• Private/Non-profit</li> <li>• Public/ Government</li> <li>• Publicly Traded</li> </ul> <div style="width: 30%;">           Other _____         </div> </div>          |         |         |
| <b>6. Legal Structure</b>                            |         | <div style="display: flex; justify-content: space-between;"> <ul style="list-style-type: none"> <li>• Sole Proprietorship</li> <li>• S Corporation</li> </ul> <ul style="list-style-type: none"> <li>• Partnership</li> <li>• Non-Profit Corporation</li> </ul> <ul style="list-style-type: none"> <li>• Corporation</li> <li>• Voluntary Corporation</li> </ul> </div> |         |         |

#### 2. STATEMENT OF UNDERSTANDING

|                                                                                                                                                                                                                                                                                                                                                                                     |               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| 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. |               |
| <b>Signature:</b>                                                                                                                                                                                                                                                                                                                                                                   | <b>Title:</b> |
| <b>Printed Name:</b>                                                                                                                                                                                                                                                                                                                                                                | <b>Date:</b>  |

**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.

## 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

**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: \_\_\_\_\_

## **Section Eight: Insurance & 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 25 Form) evidencing bidder's liability insurance meets the proper requirements.
2. Comprehensive general liability not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. The Insurance Certificate shall name "Council on Aging of Southwestern Ohio (COASW)" as an additional insured and shall include a provision that requires written notice to COA at least thirty (30) calendar days in advance of any cancellation or non-renewal of coverage.
3. Third Party Fidelity or similar insurance covering client loss due to theft of client's property or money by any employee or volunteer of the Bidder.
4. Automobile liability insurance, as applicable, covering all vehicles leased or owned by Provider that are used or operated to deliver service(s) of transportation, adult day service transportation and meal delivery with coverage against claims for injury and/or death in the amount of not less than \$1,000,000 per occurrence.
5. A fidelity bond covering all individuals authorized by the Bidder to collect and/or disburse funds.
6. Professional liability insurance for providers of Adult Day Services, Legal Assistance, health care services, social work/counseling, and/or nutritional consultation insuring Provider and such professionals against any and all claims, actions, causes, costs and expense relating to or arising out of the performance of services, on an occurrence basis, or claims made with appropriate tail coverage. The minimum amount of coverage shall be \$2,000,000 for each incident and \$2,000,000 annual aggregate.
7. 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.
8. The insurance required under this RFP shall cover acts or omissions of both paid employees and volunteers working for the Bidder.
9. The Bidder shall require the same amount of insurance from all subcontractors utilized under this agreement.
10. Bidders must submit a current Workers' Compensation Certificate with their proposal.

## Section Nine: General Terms & 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. If Bidders discover any ambiguity, conflict, discrepancy, omission, or other error in this RFP, they shall immediately notify COA via [provider\\_services@help4seniors.org](mailto:provider_services@help4seniors.org) of such error in writing and request clarification or modification of the document.
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 as determined by COA in its sole discretion.
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. Agreement
  - b. RFP and all attachments and addenda including presentation material if presentations are requested, and clarification sought by COA
  - 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 tax 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 for the initial contract and each annual renewal.
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. Provider must carry adequate insurance coverage to meet the specifications of this RFP provided as part of the Insurance and Workers’ Compensation section.
19. Provider must abide by the specifications set out in the Provider Requirements in an Emergency provided in Appendix A: Emergency Preparedness Plan.
20. If awarded services, the selected Bidder will enter into an Agreement substantially similar to the sample agreement shown in Appendix C.
21. 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.
22. No identifying information protected by HIPAA shall be submitted in your proposal. Submitting HIPAA protected information or other such protected information will be grounds for rejection of the proposal. This includes information known by, or previously reported to, COA. Bidders are reminded that bid documents are open to public scrutiny under Ohio Public Records laws.

## **APPENDIX A: 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; Providing services beyond the provider's traditional territory;
  - b. 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 B: 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 operating system must run Microsoft Windows 7 or above with at least the minimum recommended RAM, disk space and processor for that operating system. Recommended browser is Internet Explorer (IE).

### **Access and Security Requirements**

Users connect via the internet to the software through a security firewall to access the system. It is the Applicant's responsibility to ensure they can connect to the internet. All transmission and handling of EPHI sensitive data must comply with all requirements set forth in the BAA.

### **Printers**

Portal users will be printing from a standard web-publication therefore support for printing issues will not be offered.

### **Technical Support and Computer/Communication Problems**

Personnel are available to handle the administrative needs of the computer system, such as assigning users and passwords. We cannot provide support for the Applicant's computer equipment or connectivity to the internet. Questions regarding user ID or password problems or to obtain additional information regarding system, application, or problems please contact:

**Computer Help Desk Phone: (513) 345-3303**

**E-mail: [helpdesk@help4seniors.org](mailto:helpdesk@help4seniors.org)**

### **Account License Fees**

Additional account connections can be added but are subject to additional charges at the Provider's expense. This fee will be used to purchase additional licensing.

### **Computer Help Desk Coverage and Service**

COA will provide support Monday - Friday between the hours of 8:00 am – 5:00 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 the COA Manager of Innovation and Technical Services, at (513) 721-1025.

*\* In addition to the requirements above COA is requiring winning bidders to be flexible. Contracted Providers must be able to enter notifications into the software systems COA may use. COA will provide additional information on the systems, as needed.*

## **APPENDIX C: Sample Agreement**

### **ELDERLY SERVICES PROGRAM AGREEMENT**

between

**The Council on Aging of Southwestern Ohio**

**and**

**XXXXXXXXXX**

**Dates: XXXXX through XXXXX**

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## **SECTION 1 INTRODUCTION**

THIS AGREEMENT ("Agreement") is entered into effective XXXXX by and between XXXXX, Inc., hereinafter referred to as the "Provider," and Council on Aging of Southwestern Ohio, hereinafter referred to as "COA<sup>SM</sup>." The purpose of this Agreement is to define the terms and conditions under which Provider is to provide Adult Day Services for the Elderly Services Program.

## **SECTION 2 GENERAL REQUIREMENTS FOR PROVIDERS**

- A. Provider shall provide only the services for which it is certified and as delineated on Exhibit C: Rate Schedule, attached to this Agreement and made a part hereof.
- B. Provider shall provide the services listed in the service zones specified and at the reimbursement rate indicated on Exhibit C of this Agreement. Provider shall not, without prior written approval from COA, discontinue servicing any service or zone listed on Exhibit C of this Agreement.
- C. Provider shall meet the current Elderly Services Program Conditions of Participation and the current Service Specifications, incorporated herein by reference.
- D. 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.
- E. 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. Provider shall promptly, upon receipt of invoice from COA, make payment for any connectivity or service fees, or other fees related to the requirements, specifications or recommendations relating to technology necessary for Provider to perform under this Agreement, as referenced in the COMPUTER HARDWARE AND SOFTWARE REQUIREMENTS, incorporated herein by reference.
- F. 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**

- A. Provider will be paid at the rate specified in Exhibit C upon providing and invoicing the authorized units of service in accordance with the RFP. Provider must use the COA ESP software, and approved format, to invoice COA for services authorized and provided. Provider must invoice monthly within the time frames established by COA.
- B. 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.
- C. COA shall have the right to refuse to process Provider claims when claims are not received within seventy five (75) 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.
- D. 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 and County.

## **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 and County, together with their respective trustees, commissioners, members, directors, officers, employees, assigns, and agents, and to hold COA and County harmless from and defend COA and County 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 and County. Nothing herein shall limit the right of COA or County to participate in its own defense.

## **SECTION 6 INSPECTION AND MONITORING**

- A. Provider shall maintain and, upon request, make available to COA, the County Board of Commissioners, 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 ESP. Such records shall be subject at all reasonable times to inspection, review, and audit by COA, the County, 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 6 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 the County and ESP 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 agrees to post in conspicuous places, available to employees and applicants for employment, notices stating that Provider shall comply with all applicable federal and state non-discrimination laws. Provider shall, in all solicitations or advertisements for employees placed by or on behalf of Provider, state that all qualified applicants shall receive consideration for employment without regard to race, religion, national origin, ancestry, color, gender, age, disability or military status.

- C. Provider at its sole cost shall conduct a criminal background check as required within the Conditions of Participation and Service Specifications.
- D. Provider shall incorporate the foregoing requirements 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, including a consultant or other person who occupies a technical or professional position capable of substantially influencing the control or 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. Failure to provide such notice shall constitute material breach of this Agreement.

## **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. Comprehensive general liability minimum of \$1,000,000.  
Provider shall furnish COA with a Certificate of Insurance evidencing Provider's liability insurance meets the proper requirements. The insurance certificate shall name "Council on Aging of Southwestern Ohio (COASM)" as an additional insured and shall include a provision that requires written notice to COA at least thirty (30) calendar days in advance of any change, cancellation or non-renewal of coverage.

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 insurance coverage including, but not limited to, change in insurance carrier(s), change in coverage, renewal of coverage.

2. Third Party Fidelity or similar insurance covering client loss due to theft of client's property or money by any employee or volunteer 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.
3. Automobile liability with coverage against claims for injury and/or death in the amount of \$300,000 per individual, \$500,000 per occurrence if providing transportation services.
4. A fidelity bond covering all individuals authorized by Provider to collect and/or disburse funds.
5. Provider of health care services, social work/counseling, and nutritional consultation shall carry and maintain professional liability insurance insuring Provider and such professionals against any and all claims, actions, causes, costs and expenses relating to or arising out of the performance of services under this Agreement, on an

occurrence basis, or claims made with appropriate tail coverage. The minimum amount of coverage shall be \$2,000,000 for each incident and \$2,000,000 annual aggregate.

6. Workers' Compensation Insurance. The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.
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- B. Provider further agrees that in the event its comprehensive general or professional liability policy is maintained on a "claims made" basis, and in the event that this Agreement is terminated, Provider shall continue such policy in effect for the period of any statute or statutes of limitation application to claims thereby insured, notwithstanding the termination of this Agreement.
  - C. 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. Provider agrees to deliver memorandum copies of such policies to COA upon request. Provider agrees to make best efforts to provide COA at least thirty (30) days advance notice, and in any event will provide notice as soon as reasonably practicable, of any cancellation or material modification of said policies. Cancellation or non-renewal of required insurance, or not furnishing COA with evidence of required insurance coverage, shall be grounds to terminate this Agreement.
  - D. The insurance required under this Agreement shall cover the acts or omissions of both paid employees and volunteers working for Provider.
  - E. Provider shall require the same amount of insurance from all subcontractors utilized under this Agreement.

## **SECTION 12 AMENDMENTS**

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.

*During the term of this Agreement COA may adopt provider quality measures (“PQMs”) designed to ensure that providers are meeting expected quality performance standards. Any PQMs so adopted shall be generally applicable to providers providing services through contracts with COA. COA reserves the right to unilaterally modify the Agreement, upon written notice to the Provider, to implement any provider quality program adopted by COA after the date of this Agreement. Provider’s performance, as measured by PQMs, may be used by COA in determining Provider’s eligibility to participate in COA’s “request for services” system, and the failure of Provider to meet minimum PQMs may be used by COA as grounds for imposing sanctions on Provider.*

## **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 ninety (90) 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 90 days written notice) by COA for good and just cause as determined within the sole and absolute discretion of COA, including but not limited 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 16 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. COA, or the agency under contract to administer Care Management for COA, reserves the right to disenroll clients from service by Provider at any time within its sole discretion which shall not be deemed a breach of this Agreement by COA.

## **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 ninety days (90) 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.
- D. 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 15 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.

### **C. 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.

### **D. 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 Director 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](http://www.help4seniors.org), under Service Provider Information. Or, upon request to the Communications Director, 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](http://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 Director, 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 Director in lieu of responding immediately to media queries. If it is not feasible for the Provider to contact the Communications Director 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.

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.

**E. 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.

F. 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.

G. 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.

H. 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.

I. DISPUTE RESOLUTION:

The parties of this agreement acknowledge that despite best intentions, complaints and disputes can occur. To aide in the resolution of a complaint or dispute a Non-Disparagement Clause has been added to this Agreement. For the purposes of this section “disparage” shall mean any negative statement, whether written or oral about the other party. COA desires to resolve all complaints and disputes to the mutual satisfaction of all parties and has procedures in place for complaints and disputes to be addressed and resolved. As a part of this Agreement Provider affirms that neither it nor any of its officers, employees, or board members will publicly criticize, disparage or defame COA, or its products, services, policies, officers, employees or board members, with any written or oral statement or image, including, but not limited to, any statements made via websites, blogs, and postings to the internet, or email. This non-disparagement clause does not limit the Provider or any of its officers, employees or board members, the right to make statements to any government or law enforcement agency regarding criminal wrong doing. Also as a part of this Agreement COA affirms that neither it nor any of its officers, employees, or board members will publicly criticize, disparage or defame Provider, or its products, services, policies, officers, employees or board members, with any written or oral statement or image including, but not limited to, any statements made via websites, blogs, postings to the internet, or email. This non-disparagement clause does not limit COA or any of its officers, employees or board members the right to make statements to any government or law enforcement agency regarding criminal wrong doing.

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 County with respect to the delivery of services reimbursable with Levy funds.

J. CONTINUITY OF OPERATIONS:

Provider should have a plan in place to ensure continuity of operations in the event of an emergency and other contingencies, including but not limited to weather related situations. 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. This includes, but is not limited to, closing for the day for weather related reasons. 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. The provider will notify COA immediately if the Provider has information about changes to client needs during an emergency.

K. 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 of Medicaid Waiver Programs 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.

L. PROVIDER NETWORK:

COA reserves the right, at its sole discretion, to expand and or refresh the Provider Network in any or all categories of service, to include the addition of categories or subcategories, or to meet geographic needs, by the issuance of additional RFP(s) or by other means, if it is deemed to be in the Client's best interest. COA intends to review and assess this need at least annually.

M. INTELLECTUAL PROPERTY; CONFIDENTIAL, PROPRIETARY AND TRADE SECRET INFORMATION:

COA shall have sole and exclusive rights to and interests in any rights, ownership, interests and all intellectual property, including but not limited to copyrights, patents, technology secrets, commercial secrets and others, arising from the performance by the Provider of its obligations under this Agreement, whether developed by either Party. The parties agree that this article survives the modification, termination or expiration of this Agreement. Any and all intellectual property of COA and any and all confidential, proprietary and trade secrets of COA remains the property (hereinafter "IP") of COA at all times during this Agreement and thereafter. Such IP includes but is not limited to pricing information, strategic information and/or service delivery methodology or systems. COA does not transfer IP to the Provider or third-parties, or authorize the Provider to disclose IP to third-parties, without the express written consent of COA. COA preserves all legal remedies to protect its IP; and Provider agrees to Indemnify COA against losses or damages to COA as a result of any unauthorized use or disclosure of COA's IP.

N. **CONFIDENTIALITY:**

Confidential, proprietary, and trade secrets may be shared only with and among those contracted or subcontracted to provide services under this agreement and only for the purpose of fulfilling the requirements of this contract. Provider agrees to maintain confidentiality to the extent permissible by law.

## **SECTION 16 EMERGENCY PREPAREDNESS**

**Policy Statement:**

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 17 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 18 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 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 XXXXX.

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

## **APPENDIX D: Sample 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. Electronic Protected Health Information that is transmitted over an electronic communications network will be protected against unauthorized access to, or modification of, electronic protected health information. When electronic protected health information is transmitted from one point to another, it will be protected in a manner commensurate with the associated risk. This includes, but is not limited to, transmission through mobile devices and smart phones.

**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 \_\_\_\_\_, 2019.

**Covered Entity:**

**COUNCIL ON AGING OF SOUTHWESTERN OHIO**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Business Associate:**

\_\_\_\_\_ **[BA Name]**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **APPENDIX E: 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.

#### **Older Americans Act, Senior Community Services Block Grant & Alzheimer Funding**

Bidders may appeal “adverse actions” taken by COA as defined below:

- Denial of an application to provide services included in an Area Plan
- Prematurely terminating an existing provider agreement
- Not renewing a multi-year provider agreement

No other issues, actions or decisions are subject to appeal.

#### **A. Administrative Appeal**

Bidders may request a COA Local Hearing only after all efforts to administratively resolve the adverse decision have been exhausted. Any administrative efforts to resolve the adverse decision should be forward to the Manager of Procurement and Contract Services or their assigned designee.

Once all efforts to administratively resolve the decision have been exhausted a Bidder not satisfied with the outcome of the as detailed above, may then request a COA Local Hearing.

#### **B. COA Local Hearing**

The appellant must submit a written appeal request from its executive-in-charge to COA’s Chief Executive Officer to request a COA Local Hearing. 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 adverse action which is being appealed.

1. The written appeal request must be signed by the appellant’s executive-in-charge and must include the following:

- a. E-mail and business addresses for the executive-in-charge or his/her designee.
  - b. Phone number for executive-in-charge or his/her designee.
  - c. Identification of the “adverse action” under appeal.
  - d. A detailed explanation of the basis for appellant’s appeal.
  - e. 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.
2. A panel of COA staff who were not directly involved in the making the adverse decision which is being appealed will convene to review appellant’s appeal request, within ten (10) business days after the close of appeal submission period. The appellant does not have a right to be present when the COA staff panel convenes.
  3. Upon determination of a decision by the panel, COA will e-mail the appellant a letter identifying the decision. This letter shall constitute COA’s final decision on the matter.
  4. COA will forward a copy of the written appeal request and the staff panel’s decision letter to the Ohio Department of Aging (“ODA”) within five (5) days after the date that COA renders its final decision.

#### **C. Ohio Department of Aging Hearing**

1. An appellant not satisfied with the outcome of the COA hearing as detailed above, may request an appeal hearing before ODA in compliance with Ohio law (see OAC 173-3-09).
2. No request for an appeal hearing shall be honored by ODA unless the appellant has first appealed the adverse action with COA and fully complied with COA’s policies governing appeal hearings, as set forth above.

### **Elderly Services Programs – Local Senior Services Levy Funding**

Bidders dissatisfied with the outcome of the ESP 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 Bidder for all or some of the services for which the applicant applied. No other issues, actions or decisions are subject to appeal.

#### **A. Administrative Appeal**

Bidders may submit an administrative appeal to try to resolve the adverse decision. Any administrative efforts to resolve the adverse decision should be forward to the Manager of Procurement and Contract Services, or their assigned designee, in writing to

[Provider\\_Services@help4seniors.org](mailto:Provider_Services@help4seniors.org) within ten (10) business days after the date the appellant received notification of the adverse decision.

Once all efforts to administratively resolve the decision have been exhausted, should a Bidder not be satisfied with the outcome of the process as detailed above, the Bidder may then request a COA Local Hearing.

## **B. COA Local Hearing**

The appellant must submit a written appeal request from its executive-in-charge to COA's Chief Executive Officer to request a COA Local Hearing. 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 adverse action which is being appealed.

1. The written appeal request must be signed by the appellant's executive-in-charge and must include the following:
  - a. E-mail and business addresses for the executive-in-charge or his/her designee.
  - b. Phone number for executive-in-charge or his/her designee.
  - c. Identification of the "adverse action" under appeal.
  - d. A detailed explanation of the basis for appellant's appeal.
  - e. 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.
2. 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.
3. Upon determination of a decision by the panel, COA will e-mail the appellant a letter identifying the decision.

### **C. COA Board Hearing**

1. 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.
2. An appellant not satisfied with the outcome of the COA Staff Hearing as detailed above, may then request an appeal hearing before the Board.
3. 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.
  - a. The appeal request must be in writing and signed by the appellant’s executive-in-charge and must include:
    - 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 “adverse action” under appeal
4. The Finance Committee of the Board shall serve as the Appeals Committee of the Board unless otherwise approved by the Board.
5. 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.
6. 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.
7. 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.