

COUNTY OF BERKS

Request for Proposals #20-18-CN

Care Management and Family Caregiver Support Programs

Issued on Friday, October 2, 2020

Pre-Proposal Conference

Tuesday, October 13, 2020, 11:30 AM

Refer to Section 1, paragraph 1.2 for details

Submittal Deadline:

Friday, November 6, 2020, 1:00 P.M., Local Prevailing Time

Refer to Section 5, paragraph 5.1 for submittal instructions.

County's Point-of-Contact for this RFP

Candace L. Noll, Contract Manager

Tel: 610-478-6168 Fax: 610-898-7404 Email: cnoll@countyofberks.com

Mailing Address: Berks County Services Center, 633 Court St. - 13th Floor, Reading, PA, 19601

Website: www.countyofberks.com

This Request for Proposals (RFP) package consists of 97 pages including this cover page and the Table of Contents page. If the RFP package you received is missing any pages, contact the County of Berks Purchasing Department by telephone at (610) 478-6168.

TABLE OF CONTENTS

SECTIONS

One	Introduction and Instructions
Two	Method of Vendor Selection
Three	Standard Contract Information
Four	Scope of Work
Five	Proposal Format and Content
Six	Evaluation Criteria and Process

ATTACHMENTS

Attachment A	Proposed Form of Agreement and General Conditions
Attachment B	HIPPA Agreement
Attachment C	Non-Collusion Affidavit Form
Attachment D	Instructions for Participating in a Microsoft Teams Live Event
Attachment E	Price Proposal Form

SECTION ONE - Introduction and Instruction

1.1. Purpose of this Request for Proposals (“RFP”)

The County of Berks (hereinafter “County”), a municipal corporation with its principal office in Reading, Pennsylvania is soliciting competitive sealed proposals (a “Proposal”) from professional firms (each a “Proposer”) that are interested in and capable of facilitating the Care Management and Family Caregiver Support Programs as further detailed in the Scope of Work of this RFP (inclusive of all tasks, deliverables and products required herein, “Services”). If the County elects to make an award to a Proposer in connection with the Services, the Proposed Form of Agreement and General Conditions included as Attachment A to this RFP as well as all documents incorporated therein shall form the entire agreement between the County and the successful Proposer (“Agreement”).

1.2. Pre-Proposal Conference

A pre-proposal conference will be held through a live broadcast using Microsoft Teams on Tuesday, October 13, 2020, beginning promptly at 11:30 AM. The Proposers may participate in the pre-proposal conference of this request for proposal through the URL shown below:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_Y2Y4NDI4MWItMzI2Zi00ZDM2LWFIMDUtNGNmOTJiZTY1NTUx%40thread.v2/0?context=%7b%22Tid%22%3a%22f5d90629-52f9-4673-b795-45b53bad5ad3%22%2c%22Oid%22%3a%22ec8761e4-ee16-4b1c-8253-d79c7f20cb4e%22%2c%22IsBroadcastMeeting%22%3a%22true%7d

The purpose of this meeting is to conduct a question and answer session regarding this RFP package to maximize the proposer’s understanding as to what is required. Should questions asked and answers given at the pre-proposal conference potentially alter the intent or scope of the RFP, the County will issue an addendum to the RFP to formally modify the RFP. This RFP cannot be modified by, and Proposers shall not rely on, comments made during the pre-proposal conference except as set forth in an addendum. All Proposers who have received the RFP package from the County will receive notification of the issuance of the addendum.

Refer to Attachment D for detailed instruction on how to participate in the opening through a Microsoft Teams Live event.

1.3. Due / Opening Dates

The deadline for the County’s receipt of Proposals is 1:00 P.M., local prevailing time, Friday, November 6, 2020 (“Proposal Deadline”). The County Controller’s time clock shall be considered the official time. As there have been mail delays in the past, Proposer shall mail any RFP response with sufficient lead time to allow for such delays in the delivery. **Proposals received after the Proposal Deadline will not be considered.** Refer to Section 5, paragraph 5.1 for specific Proposal submittal instructions.

Proposals will be opened publicly at 1:30 P.M., on Friday, November 6, 2020 in order to provide public access while also respecting the need for social distancing as a result of COVID 19 the only manner in which to attend the proposal opening will be through a live broadcast using Microsoft Teams. A summary of Proposals received (company name) will be posted on the Purchasing Department’s page of the County’s website (www.countyofberks.com) The public may participate in the opening of this request for proposals through the URL shown below:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_M2VmYWZiZTEtNTdiMi00ZjFILTkyOGQtN2ZjYzY3MzAyY2Fm%4

[0thread.v2/0?context=%7b%22Tid%22%3a%22f5d90629-52f9-4673-b795-45b53bad5ad3%22%2c%22Oid%22%3a%22ec8761e4-ee16-4b1c-8253-d79c7f20cb4e%22%2c%22IsBroadcastMeeting%22%3a%22true%7d](https://othread.v2/0?context=%7b%22Tid%22%3a%22f5d90629-52f9-4673-b795-45b53bad5ad3%22%2c%22Oid%22%3a%22ec8761e4-ee16-4b1c-8253-d79c7f20cb4e%22%2c%22IsBroadcastMeeting%22%3a%22true%7d)

Refer to Attachment D for detailed instruction on how to participate in the opening through a Microsoft Teams Live event. *Only the name of each Proposer will be read publicly. All other information contained in each Proposal shall be treated as confidential so as to avoid disclosure of contents prejudicial to competing Proposers.*

1.4. Amendments to Submitted, Unopened Proposals

Amendments to or withdrawals of submitted, unopened Proposals will only be allowed, if requests are received by the County prior to the Proposal Deadline. No amendments or withdrawals will be accepted after the Proposal Deadline unless they are in response to the County's request.

1.5. Required Review of RFP Package

Proposers shall carefully review this RFP for defects, inconsistencies or ambiguities. Comments concerning defects, inconsistencies or ambiguities must be made in writing and received by the RFP's point-of-contact (see cover page), at least ten (10) business days prior to the Proposal Deadline. This will allow for the issuance of any necessary addenda.

All questions must be in writing and directed to the RFP's point-of-contact. This RFP cannot be modified except by written addenda issued by the County. The decision on whether an addendum is required shall be made by the County in its sole discretion.

If an addendum is issued, it will be provided to all parties who were provided a copy of the RFP by the County's Purchasing Department. It shall ultimately be the responsibility of the Proposer to check and download Addenda from the County's website.

1.6. Receipt of RFP Package

The County's Purchasing Department is the sole authority to provide the RFP package to interested companies or individuals. Proposers who are working from an RFP package obtained from any other source, may be working from an incomplete set of documents. The County assumes no responsibility for an error, omission, or misinterpretation resulting from a Proposer's use of an incomplete RFP package.

Proposers who have received the RFP package from a source other than the County Purchasing Department, are advised to contact the Purchasing Department to provide their company's name, address, telephone number, fax number, and contact name. This will ensure that the Proposer will receive all communication regarding the RFP such as Addenda.

Proposers who have received the RFP package by downloading it from the County's website, and have not provided their company's information to the County's Purchasing Department are responsible for checking the website to obtain any Addenda issued for the RFP.

1.7. Preparation Costs

The County will not be responsible for any costs associated with the preparation, submittal, or presentation of any Proposal. If the County rejects a Proposal or does not award an Agreement to any particular Proposer, the Proposer agrees that it will not seek to recover lost or expected profits, Proposal preparation costs or claims for unjust enrichment.

1.8. Public Information

All Proposals and other material submitted become the property of the County and may be returned only at the County’s option. Information contained in the Proposals will not be disclosed during the evaluation process. Under Pennsylvania’s “Right to Know” laws (65 P.S. §§ 67.101-67.3104), public records are required to be open to reasonable inspection. All Proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and prior to the time the Agreement is executed by the County. Thereafter, the Proposals will become public information. Requests for photocopies of public records must be made to the Open Records Officer and will be provided to the requestor for a nominal per page fee.

Trade secrets and other proprietary data contained in Proposals may be held confidential, if the Proposer requests, in writing, that the County does so, and if the County agrees, in writing, to do so. Material considered confidential by the Proposer must be clearly identified and the Proposer must include a brief statement that sets out the reasons for confidentiality.

1.9. Reservation of Rights

1.9.1. The County reserves and may, at its sole discretion, exercise the following rights with respect to this RFP and all Proposals submitted pursuant to this RFP:

- 1.9.1.1.** To reject all Proposals and re-issue the RFP at any time prior to execution of the Agreement; to require, in any RFP for similar products and/or services that may be issued subsequent to this RFP, terms and conditions that are substantially different from the terms and conditions set forth in this RFP; or to cancel this RFP with or without issuing another RFP.
- 1.9.1.2.** To reject any Proposal if, in the County’s sole discretion, the Proposal is incomplete, the Proposal is not responsive to the requirements of this RFP, the Proposer does not meet the qualification requirements set forth in Section 5 herein, or it is otherwise in the best interest of the County to reject the Proposal.
- 1.9.1.3.** To supplement, amend, substitute, or otherwise modify this RFP at any time prior to the execution of the Agreement.
- 1.9.1.4.** To accept or reject any or all of the items in any Proposal and award the Agreement for the whole or only a part of any Proposal if the County determines, in its sole discretion, that it is in the County’s best interest to do so.
- 1.9.1.5.** To reject the Proposal of any Proposer that, in the County’s sole judgment, has been delinquent or unfaithful in the performance of any contract with the County, is financially or technically incapable, or is otherwise not a responsible Proposer.
- 1.9.1.6.** To waive any informality, defect, non-responsiveness, and/or deviation from this RFP that is not, in the County’s sole judgment, material to the Proposal.
- 1.9.1.7.** To permit or reject, at the County’s sole discretion, amendments (including information inadvertently omitted), modifications, alterations, and/or corrections to Proposals by one or more of the Proposers following Proposal submission.

- 1.9.1.8. To request that one or more of the Proposers modify their Proposals or provide additional information.
 - 1.9.1.9. To request additional or clarifying information from any Proposer at any time, including information inadvertently omitted by a Proposer.
 - 1.9.1.10. To require that Proposers appear for interviews and/or presentations of their Proposals at County offices.
 - 1.9.1.11. To inspect programs similar in type and scope to the work sought in this RFP and/or to inspect the Proposer's facilities to be used in furnishing goods or services required by the RFP.
 - 1.9.1.12. To conduct such investigations as the County considers appropriate with respect to the qualifications of any Proposer and with respect to the information contained in any Proposal.
- 1.10. Any and all protests related to this solicitation are subject to the County of Berks Protest Policy which is located on the County of Berks Purchasing Department website: [http://www.co.berks.pa.us/Dept/Purchasing/Pages/InvitationstoBid\(ITB\)andRequestforProposals\(RFP\).aspx](http://www.co.berks.pa.us/Dept/Purchasing/Pages/InvitationstoBid(ITB)andRequestforProposals(RFP).aspx)
- 1.11. **RFP Timeline**
 Following is the County's estimated timeline for the RFP process:
- | | |
|--|--------------------------------|
| Issue RFP | Friday, October 2, 2020 |
| Pre-Proposal Conference | Tuesday, October 13, 2020 |
| Cutoff for Submission of Written Questions | Wednesday, October 21, 2020 |
| Deadline for Submission of Proposals | Friday, November 6, 2020 |
| Opening of Submitted Proposals | Friday, November 6, 2020 |
| County's Review of Proposals | November 9 – November 20, 2020 |
| Notify Short List Firms | Monday, November 23, 2020 |
| Interview Short List Firms | Monday, November 30, 2020 |
| Issue Notice of Contract Award | Thursday, December 10, 2020 |
| Commencement of Work | Friday, January 1, 2021 |

SECTION 2 – Method of Vendor Selection

2.1. Interviews with Short List Firms

The County may, in its sole discretion, elect to conduct interviews with one or more Proposers. The purpose of an interview will be to clarify and assure the Proposer's full understanding of, and responsiveness to, the solicitation requirements. Revisions to a Proposal may be permitted after submission and before the County's execution of the Agreement for the purpose of obtaining best and final offers with the County's approval. The individual identified in the Proposal as the Program Manager, must be in attendance at the interview.

2.2. Right to Negotiate

After the County's completion of the Proposal evaluation process, including any interviews held with Proposers during the evaluation process, the County may elect to initiate negotiations with one or more Proposers for modification of any component of the Agreement, including, without limitation, the scope of services, price or schedule for completion. The option of whether or not to initiate or terminate negotiations rests solely with the County, which may be exercised at any time.

2.3. Award of Contract

2.3.1. If the County elects to award the Agreement pursuant to this RFP, it intends to award the Agreement to the responsible and responsive Proposer whose Proposal is determined to provide the best overall value to the County. The County intends to award a three-year Agreement term with the option of extending the term of the Agreement for two additional one-year periods upon the mutual agreement of the parties. The Vendor should be prepared to begin work on January 1, 2021.

2.3.2. At the option of the County and the agreement of the Proposer, the agreement may be extended for an additional twelve (12) months; at the option of the County and with the agreement of the Proposer, the agreement may be extended for a second additional twelve (12) months. The cost per unit of service for any additional twelve (12) month period shall be negotiated between the County and the Proposer and agreed to no later than ninety (90) days before the end of the prior agreement term. Any increase in the cost per unit of service for any additional twelve (12) month period is limited to the percentage increase provided in the County's Regular Block Grant categorical allocation. Failure to agree on a guaranteed cost per unit of service provided for any additional twelve (12) months may require the County to re-solicit.

2.3.3. The County reserves the right, upon notice to the Proposer, to extend the term of the agreement for up to three (3) months upon the same terms and conditions. This will be utilized to prevent a lapse in agreement coverage and only for the time necessary, up to three (3) months, to enter into new Agreement and to ensure a smooth transition process for consumers.

2.3.4. This option provision shall be within the sole and exclusive discretion of the County to exercise and shall not obligate the County to extend the agreement.

2.3.5. Amounts of services to be purchased by County in any additional twelve (12) month period shall be dependent upon the availability of funds and participant demand.

SECTION 3 - Standard Contract Information

3.1. Standard Agreement Provisions

The Agreement resulting from the award of this RFP will be governed by the terms and conditions set forth in the Proposed Form of Agreement and General Conditions set forth in Attachment A, attached hereto and incorporated herein. Proposers must detail in their Technical Proposal their reasons for objection to any part of RFP or Proposed Form of Agreement and General Conditions. Hindrance of the award process due to the extent of a Proposer's objection to the form or substance of the RFP or Proposed Form of Agreement and General Conditions may have a negative impact on the County's assessment of that Proposal.

3.2. Agreement Content

The Agreement will incorporate this RFP, the Proposer’s Proposal, and any additional information deemed necessary as a result of the negotiations held with the Vendor.

3.3. Confidentiality of Protected Health Information:

3.3.1. To the extent applicable, the parties hereto agree to fully comply with the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, and all amendments thereto and regulations promulgated thereunder (collectively, “HIPAA”), as well as any other applicable laws or regulations concerning the privacy and security of health information. The successful Proposer agrees at all times to treat any protected health information (as defined by HIPAA), created by or disclosed or otherwise made available to the successful Proposer in connection with the Agreement, in accordance with all federal, state and local laws and regulations regarding the confidentiality of protected health information. Without limitation to other rights and remedies under the Agreement or afforded by law, County may immediately terminate the Agreement if it determines that there has been a material breach of this provision.

3.3.2. To the extent that County meets the definition of a “Covered Entity” or “Business Associate” (as such terms are defined under HIPAA) and the successful Proposer/Vendor is determined by County to meet the definition of a “Business Associate” or “Subcontractor” (as such terms are defined under HIPAA) of County, the successful Proposer and County shall enter into a HIPAA Business Associate Agreement in a form satisfactory to County as set forth in Attachment B, attached hereto and incorporated herein, which shall govern the treatment of any protected health information created, received, transmitted, or maintained by successful Proposer on behalf of the County.

SECTION 4 – Scope of Work

4.1. Care Management Program

4.1.1. Purpose

4.1.1.1. The County of Berks is seeking a vendor to facilitate The Care Management (CM) Program for the Berks County Area Agency on Aging (BCAAA). The Care Management program integrates care plan implementation, evaluation, monitoring, and aides in providing assistance to functionally impaired older adults at least 60 years of age to obtain the necessary services to ensure that they are safely cared for within their home and community.

4.1.1.2. CM can be provided as a stand-alone service requiring meetings between care managers, CM Participants and caregivers; or, CM can be provided as an ongoing CM service of indefinite duration. The average number of cases is 475 over the last 3 years.

4.1.1.3. Many consumers receive care management as their primary service and need assistance with activities such as relocation to assisted living or nursing homes for those for whom no other options exist; supportive counseling, bereavement counseling, and bill paying assistance. Oversight of paying utility bills or having utilities reconnected is another service that may be required in some instances.

Those who are homeless or borderline homeless receive assistance in location to permanent housing.

- 4.1.1.4. The quantities identified herein were obtained utilizing historical data and provided for informational purposes. There are a variety of factors that may impact these figures, it shall be the responsibility of the Vendor to identify and ensure that these are accounted for within their respective proposal submission.
- 4.1.1.5. Utilizing the 2020/2021 Block Grant as a basis the County of Berks estimates it will have an aggregate dollar figure of \$113,000 for all services identified herein.

4.1.2. Definitions

- 4.1.2.1. Program Directive (APD) is an official document issued by the PDA in which detailed information is presented on the operation of specific aging service programs
- 4.1.2.2. Care Management Instrument (CMI) is an assessment tool developed by the PDA to compile information about the participant, their condition, situation and environment, and assist the care manager in developing the care plan and ongoing care management. A CMI is required at initial assessments and annually for all participants or if there is a change in two or more functional need areas within the CMI. Family Caregiver Support Program (FCSP) participants require semi-annual assessments.
- 4.1.2.3. Care Manager works with participants and their caregivers in gaining access to the state's home- and community-based services and other medical, social and educational services regardless of funding source.
- 4.1.2.4. Caregivers are family members, friends or neighbors who provide ongoing and frequent assistance to enable participants to live safely in their homes. The assistance is not limited to hands-on care but must be critical to the well-being of participants. Within the Family Caregiver Support Program (FCSP), the assistance must be provided daily for functionally dependent adults.
- 4.1.2.5. Functional Needs Measurement (FNM) is a score used to prioritize assessments and care plans for BCAA OPTIONS CM and FCSP participants. FNM scores are generated for a participant automatically in SAMS after a care manager completes a Care Management Instrument (CMI).
- 4.1.2.6. Individual Service Plan (ISP) is a custom care plan developed by the PDA to guide the implementation of services based on the needs and expressed preferences of participants and caregivers.
- 4.1.2.7. Level of Care Assessment (LOCA) is a clinical assessment tool used to determine level of care for participants. Completion of the LOCA allows for classification of participants as Nursing Facility Clinically Eligible or Nursing Facility Ineligible. LOCAs are required for an initial assessment, level of care change, hospitalization or rehabilitation, or when there is a locus of care change.

- 4.1.2.8. Nursing Facility Clinically Eligible (NFCE) participant who has been assessed and determined to be clinically eligible for nursing facility care.
- 4.1.2.9. Nursing Facility Ineligible (NFI) participant who has been assessed and determined not to be clinically eligible for nursing facility care.
- 4.1.2.10. The OPTIONS Program is an assessment service provided by the Area Agency on Aging for older adults to help the older person, their family, and vendors determine what long-term living services best fit their needs.
- 4.1.2.11. Consumers who receive these services are normally 60 years of age or older and experience some degree of frailty in their physical or mental health. They range in functional need from being eligible for a nursing facility to needing basic personal care services such as help around the home.
- 4.1.2.12. Social Assistance Management System (SAMS) is software used to track all services provided to participants with Berks County Area Agency on Aging (BCAAA) funding.
- 4.1.2.13. Waiting Lists are used when participant demand for services exceeds service capacity. Guidelines for waiting lists are regulated by the state. A participant's position on the list is based on the Functional Needs Measurement (FNM) score, which is determined through the Care Management Instrument (CMI) assessment process. Participants are placed on the list in descending order of FNM scores; participants with the highest levels of need are at the top of the list. Participants determined to be at the highest level of risk are exempted from the list and given highest priority for services. While on the list, participants may use the services of their care manager, or elect to wait until all or part of their desired services are available.

4.1.3. Target Population and Client Eligibility

- 4.1.3.1. The target population consists of functionally impaired adults age 60 and over, who qualify under the OPTIONS program, to ensure and enhance their independence in their own homes while preventing premature or unnecessary institutionalization.
- 4.1.3.2. Client Eligibility is determined through the use of LOCA, FNM, and CMI by a BCAA assessor.

4.1.4. Aging Program Directive (APD)/Federal/State Regulatory Reference and Compliance

- 4.1.4.1. Organizations providing services outlined in this Scope of Service shall comply with all federal and state directives listed below and any others that may be issued by the BCAA.
 - 4.1.4.1.1. Critical Incident Management Policy for Office of Long-Term Living Home and Community-Based Services Programs
<http://www.portal.state.pa.us/portal/server.pt/community/bulletins/19451>
 - 4.1.4.1.2. Code, Title 6, Chapter 15: Protective Services for Older Adults

http://www.pacode.com/secure/data/006/chapter15/006_0015.pdf

- 4.1.4.1.3. Pennsylvania Department of Aging APD 10-01-02: Family Caregiver Support Program (FCSP)

http://www.portal.state.pa.us/portal/server.pt/document/797643/apd_10-01-02_pdf

- 4.1.4.1.4. Pennsylvania Department of Aging: Home and Community Based Services Procedures Manual

- 4.1.4.1.5. Pennsylvania Department of Aging APD 07-01-06: Increase in Current Service Plan Cost Cap for OPTIONS

<http://www.portal.state.pa.us/portal/server.pt?open=514&objID=616013&mode=2>

- 4.1.4.1.6. The safety of consumers, employees, and volunteers is paramount; therefore, the provider(s) must emphasize the importance of following Centers for Disease Control and Prevention (CDC) and Pennsylvania Department of Health (DOH) guidelines for mitigating the spread of the COVID-19 virus.

- 4.1.4.2. This Scope of Service is subject to change based on changes to the above directives.

4.1.5. Performance Evaluation

- 4.1.5.1. CM Vendors shall evaluate program performance using the established indicators with the BCAAA in evaluating performance. Vendors shall work with BCAAA to develop benchmarks based on the following criteria:

- 4.1.5.1.1. CM Participants and caregivers shall be effective partners in developing and managing needed supports.

- 4.1.5.1.2. CM Participants shall remain safely at home or in a community setting of their choice.

- 4.1.5.1.3. Caregivers will maintain or improve their quality of life and be able to continue to provide care for a longer period of time with the expectation that CM Participants will maintain or improve their quality of life.

- 4.1.5.2. CM Vendor has a designated representative who regularly serves on BCAAA performance/quality teams. The CM Vendor maintains their own quality assurance program.

4.1.6. Monitoring

- 4.1.6.1.** The BCAAA reserves the right to monitor all CM services and related information.
 - 4.1.6.1.1.** CM Vendors must comply with the standards of any monitoring process of the BCAAA and those of the PDA.
 - 4.1.6.1.2.** Vendor will be monitored to ensure compliance with:
 - 4.1.6.1.2.1.** The Home and Community Based Services Manual.
 - 4.1.6.1.2.2.** Pennsylvania code.
 - 4.1.6.1.2.3.** Accurate billing and sound financial practices.
- 4.1.6.2.** CM Vendors shall participate in and incorporate the results of Quality Management and Program Evaluation initiatives led by the BCAAA with the CM Vendor.

4.1.7. Service Standards, Reporting, and Documentation Requirements

- 4.1.7.1. Components:** The following are the mandatory components and requirements of the CM Program.
 - 4.1.7.1.1.** Care Managers shall arrange the following services as needed:
 - 4.1.7.1.1.1.** Personal Care or Personal Assistance Services (PAS) 1 to 7 days a week. Hours of care from a vendor agency depends upon the severity of each situation and the availability of family to assist. Services may include, but not be limited to:
 - 4.1.7.1.1.1.1.** Bathing
 - 4.1.7.1.1.1.2.** Dressing
 - 4.1.7.1.1.1.3.** Meal preparation
 - 4.1.7.1.1.1.4.** Skin Care
 - 4.1.7.1.1.1.5.** Grooming
 - 4.1.7.1.1.1.6.** Toileting
 - 4.1.7.1.1.1.7.** Assistance with transferring and ambulation
 - 4.1.7.1.1.1.8.** Changing positions
 - 4.1.7.1.1.1.9.** Feeding that may involve mashing food
 - 4.1.7.1.1.1.10.** Assistance with self-administration of medication
 - 4.1.7.1.1.1.11.** Observation of consumer to report changes in condition
- 4.1.7.2.** Home Support Services from 1 to 7 days a week. Hours of care depend on the severity of situation. Available supports may include, but not be limited to the following:
 - 4.1.7.2.1.** Shopping
 - 4.1.7.2.2.** Washing dishes
 - 4.1.7.2.3.** Meal preparation and cleaning up after meal
 - 4.1.7.2.4.** Washing personal laundry

- 4.1.7.2.5. Light housekeeping, essential only for consumer care
- 4.1.7.2.6. Assistance with money management

4.1.7.3. Adult day services 1 to 5 days a week, for a maximum of 8 hours a day. Activities shall be appropriate for frail and memory impaired consumers. A hot nutritious meal shall be provided daily.

4.1.7.4. Personal Emergency Response Systems (PERS) allow a consumer to call for help in an emergency by pushing a button. A PERS has three components: a small radio transmitter, a console connected to your telephone, and an emergency response center that monitors calls.

4.1.7.5. Durable Medical Equipment for those needing adaptive devices to include, but not be limited to canes, walkers, oxygen, and transfer benches for bathing.

4.1.7.6. Coordination and support for accessing needed home modifications including, but not limited to ramps, grab bars, stair glides, and electric lift chairs.

4.1.8. Participant Referrals

4.1.8.1. BCAA requires participant referrals within (10) ten business days.

4.1.8.2. CM shall initiate contact with 100% of participants within 3 business days after receiving the case assignment.

4.1.9. Assessments

4.1.9.1. A comprehensive face-to-face assessment shall be conducted in the consumers home or mutually agreed upon venue, such as an office after intake with CM Participants and others of their choosing (e.g. family members, friends, etc.) to evaluate the medical, psycho-social, environmental and financial aspects of their situation.

4.1.9.2. The Financial Summary and Care Management Instrument (CMI) are required initially, updated annually, or when the CM Participant's situation changes.

4.1.9.3. CM participants also may request reassessments.

- 4.1.9.3.1. 40% of assessments must be completed within 3 business days of referral.
100% of assessments must be completed within 5 business days of referral.

- 4.1.9.3.2. 95% of assessments must have all of the information as required by SAMS completed.

4.1.10. Resource Counseling and Support (Information and Assistance)

4.1.10.1. Care managers shall assume a proactive role in counseling, informing, and advising CM Participants on all available, appropriate BCAA and non-BCAA programs and services that address the CM Participants' unmet needs and help CM Participants to make informed decisions about their care.

4.1.10.1.1. Counseling and support are extended to caregivers, and may include, but not be limited to referrals to community health, social service and other government programs.

4.1.10.1.2. 100% of CM Participants and caregivers must receive ongoing resource counseling at least every 6 months.

4.1.11. Service Plans

4.1.11.1. Care managers shall work with CM Participants, caregivers and other persons in their support network to develop and implement a comprehensive, personalized service plan that is strengths-based and specific to the CM Participant's individual preferences, needs and desired outcomes.

4.1.11.2. At a minimum, CM Vendors must meet state standards, as indicated at (http://www.portal.state.pa.us/portal/server.pt/document/971150/isp_proceduresbulletin_051006_pdf).

4.1.12. Service Initiation

4.1.12.1. CM Vendors must work collaboratively with CM Participants and caregivers to arrange for CM services, according to preferences for services, scheduling and CM Vendors.

4.1.13. Regular CM Participant Contacts

4.1.13.1. Care managers shall work with CM Participants to establish and adhere to a regular schedule of contacts based on the CM Participants acuity, needs and level of support, but occurring not less than once a month. The contacts are conducted to check on the CM Participant's condition, assess the effectiveness of the care plan and allow for adjustments to the plan, as needed.

4.1.13.2. All CM Participants must receive a minimum of one monthly contact, either by telephone or face-to-face.

4.1.13.3. CM Vendor addresses participant-initiated complaints, problems, and expressions of concern within 2 business days and provides a response to BCAA in writing within 7 business days.

4.1.13.4. All NFI CM Participants must receive at least one home visit every six months.

4.1.13.5. All NFCE CM Participants must receive at least one home visit every three months.

4.1.13.6. The caseload per care manager shall not exceed 100 with an average of 3 visits to be conducted daily.

4.1.14. Service Utilization

4.1.14.1. Care managers shall:

4.1.14.1.1. Monitor services to assure that they are delivered as prescribed, CM Participant needs, and expectations are met, and problems or concerns are addressed effectively and within 24 hours.

4.1.14.2. Ensure 100% of CM Participants receive a follow-up call no later than two weeks after referral to the in-home services vendor.

4.1.14.3. Ensure 100% of qualifying incidents are reported in compliance with incident management guidelines and to BCAAA Protective Services. This is governed by Pennsylvania State Code at:
<http://www.pacode.com/secure/data/006/chapter15/chap15toc.html>

4.1.15. Emergency Situations

4.1.15.1. Care managers shall:

4.1.15.1.1. Check on the well-being of CM Participants and caregivers; and provide additional CM services to those facing emergency situations in their homes, such as severe weather, property damage or utility issues.

4.1.15.1.2. In addition to currently served CM Participants, CM Vendors are responsible for serving older adults affected by emergencies in the CM Vendor's service area, or by special request of the BCAAA.

4.1.15.1.3. Maintain emergency plans that are current, actionable, routinely updated manually practiced, followed and, at a minimum, be in compliance with the BCAAA Emergency Response Plan.

4.1.15.1.4. Respond to public emergency situations affecting older adults in their community and deploy care managers as needed.

4.1.15.1.5. Respond within 24 hours of notification by BCAAA of public emergency (24 hours a day/7 days a week) in accordance with the BCAAA Emergency Plan.

4.1.15.1.6. Check on all homebound CM Participants in public emergency situations to assure their safety and mitigation of risk. For known situations such as severe weather events, consumers shall be contacted prior to the event. For unexpected events, consumers shall be contacted within 24 hours.

4.1.15.1.7. Visit, assess and appropriately intervene the same day (available 24 hours a day/7 days a week), on notification by BCAAA that an emergency situation affecting a participant exists, and reports back to BCAAA within 48 hours. Notification by BCAAA will consist of entering an action in SAMS and following up with a phone call to the CM Vendor.

4.1.16. Documentation

4.1.16.1. CM Vendors shall be responsible for:

- 4.1.16.1.1.** Entering and updating all CM Participant data into SAMS, the mandated database required by the Pennsylvania Department of Aging.
- 4.1.16.1.2.** Coordinating appropriate information management system training (SAMS), and the transfer of knowledge and information to current and new staff within one week of hire.
- 4.1.16.1.3.** Entering all CM Participant documentation into SAMS within three working days after a CM Participant contact or transaction.
- 4.1.16.1.4.** Generating monthly reports on the data and its impact on CM Participants for submission to the BCAAA by close of the last business day of the month for the prior month's data.
- 4.1.16.1.5.** Having the capacity to retrieve and submit data, information, reports and other communication through electronic Internet capabilities within one business day of receipt. Failure to receive or read BCAAA communications sent to CM vendor MPER e-mail addresses the same day does not absolve CM Vendors from knowing, responding to or complying with the directives in the communication.

4.1.17. Case Conferences

- 4.1.17.1.** Case conferences are available to assist care managers, CM participants and caregivers, when appropriate, by convening a multi-disciplinary team of personnel from the BCAAA and CM Vendors. Case conferences are coordinated by the BCAAA at the request of any involved party and can be conducted in a group setting or by conference call.
- 4.1.17.2.** 100% of case conferences are held and produce action plans to address the immediate needs of participants.

4.1.18. Competencies

- 4.1.18.1.** As representatives of the BCAAA, CM Vendors are expected to aspire to the highest ethical values, accountability and professionalism in all aspects of their work, beginning with the hiring of staff and through all interactions with CM Participants and caregivers. At the center of CM practice are three primary values:
 - 4.1.18.1.1.** Build on the wisdom and strengths of older adults and those who care for them.
 - 4.1.18.1.2.** Honor the individual choices made by those whom we serve.
 - 4.1.18.1.3.** Respect individual diversity as it enriches the community and be inclusive in CM services.

4.1.18.1.4. These values are manifested through the following CM core competencies and reflect the fundamental ethics of the profession.

4.1.19. Identification of Needs

4.1.19.1. Identification of needs is the ability to work in partnership with CM Participants, caregivers and other professionals to assess CM Participants' circumstances; to identify CM Participant and caregiver needs, risks, gaps, opportunities; and to respond appropriately. It is the ability to provide opportunities for CM Participants to function; participate and develop to their highest possible level of independence in their environments.

4.1.19.2. Care managers must have the skills to deal with the various circumstances encountered in their work, including basic understanding of medical issues as they relate to normal and abnormal aging, mental health issues, substance abuse, physical or cognitive disabilities and other challenges.

4.1.20. CM Participant and Caregiver Rights

4.1.20.1. CM Vendors are responsible to adhere to specific ethical standards during their interaction with CM Participants and caregivers. These include, but are not limited to the following:

4.1.20.1.1. All CM Participants and caregivers must be treated in a manner that is respectful of their individual rights, interests, needs and values.

4.1.20.1.2. All CM Participants and caregivers must be informed of all available, appropriate CM service alternatives and made aware of the conditions of service delivery.

4.1.20.1.3. All CM Participants and caregivers must be fully supported in the self-direction of their strengths-based care.

4.1.20.1.4. All CM Participants and caregivers must have the right to make final decisions about their CM services and to choose in-home vendors from BCAA lists of contracted vendors, as mandated by the PDA.

4.1.20.1.5. Care managers must fully support responsible CM Participant and caregiver rights to comment, decisions, file complaints or seek additional information about their CM services by explaining how, when and where to engage in the appropriate processes.

4.1.21. Coordination of Service Delivery

4.1.21.1. The CM Vendor shall be responsible for coordinating the CM services necessary for the CM Participants' assessed level of care and protection through the BCAA and other community resources. Coordination shall include, but not be limited to:

4.1.21.1.1. Arranging for, reviewing, and monitoring established CM services.

4.1.21.1.2. Amending CM services, as needed, in order to meet CM participant's changing needs, mitigate risks, and support the highest possible level of functioning and independence.

4.1.21.2. Ordering of Services

4.1.21.2.1. Availability of service hours shall be determined prior to prescribing services.

4.1.21.2.2. The participant's care manager will contact the participant's vendor of choice with a service request as follows:

4.1.21.2.2.1. The vendor coordinator shall notify the care manager within two business days regarding the availability of a worker. If the vendor is unable to confirm a start date, the care manager will then phone the next vendor and follow the same procedure until a vendor is found or all vendors are called. The care manager shall document these contacts in the Journal.

4.1.21.2.2.2. Once the start date of service is determined, the care manager shall immediately enter the vendor, service information, and start date into the Service Plan in SAMS. (Note: The Service Plan must be completed prior to entering the Service Orders.)

4.1.21.2.2.3. Upon completion of the Service Plan, the care manager shall enter service orders for the current care plan. In special Instructions, the care manager shall include the prescription and the specific days of the week the consumer will receive services. The units should reflect the exact number of hours (units of service) the participant will receive each month.

4.1.21.2.2.4. The service vendor will then be able to access the participant from the Consumer List in SAMS and print the service order. The vendor shall not service a consumer prior to viewing the Service Order in SAMS.

4.1.21.2.2.5. The vendor is responsible for communication with in-home vendors on all assigned care management cases including but not limited to missed services, service suspensions and termination of services.

4.1.22. Community Coordination.

4.1.22.1. In order to promote and facilitate intra- and inter-agency coordination of aging services, Options/Care Management shall include:

4.1.22.1.1. Coordination with Information and Assistance (I&A):

4.1.22.1.1.1. Options care managers shall work with the BCAA or vendor's I&A unit to identify formal and informal service vendors within the geographic service area.

- 4.1.22.1.1.2. When transitioning to a different program (example: Aging Waiver), joint visits must be made by both the Options and Long-Term Care managers.

4.1.23. Waiting Lists

- 4.1.23.1. The availability of funds is the determining factor as to when a waiting list begins. Consumers are then placed on the waiting list until funding is available.
- 4.1.23.2. When a waiting list exists, participants shall be placed on the list according to the scores on the Options/Functional Needs Measurement (FNM). Completion of the FNM results in a numerical score for each participant ranging from zero to one hundred points. The FNM score prioritizes participants in need based on a uniform set of domains determined by the PDA.
- 4.1.23.3. Chronological order and overall assessed need as determined by the BCAA.
- 4.1.23.4. Additional criteria to determine priority must be received prior to BCAA approval.
- 4.1.23.5. The participant will have the option of receiving or not receiving Care Management while on the waiting list.

4.1.24. Reduction, Suspension and Termination of Services

- 4.1.24.1. CM services may be discontinued temporarily because CM Participants are in the hospital, CM participant needs are temporarily being met by another source of support, or CM Participants are temporarily out of town, or are placed in a personal care, nursing or rehabilitation facility. CM Participants whose CM services are suspended for more than forty-five days need to be “terminated” and re- entered. BCAA wait list guidelines must be followed.

4.1.25. Use of CM Participants in Research or Survey Programs

- 4.1.25.1. CM Vendors shall not involve Options CM Participants or FCSP caregivers as subjects in any research, survey programs or funding requests without the prior consent of the BCAA. CM Vendors engaging in such programs shall adhere to all best practices in human subject research including informed consent and confidentiality.

4.1.26. Confidentiality

- 4.1.26.1. CM Vendors shall be responsible for implementing all necessary procedures and safeguards to protect and maintain the integrity and confidentiality of all verbal, written and electronic CM Participant and caregiver data according to applicable federal HIPAA standards. CM Vendors are liable to criminal or civil penalties for breaches of CM Participant confidentiality.

4.1.27. Geographic Service Area

- 4.1.27.1.** Service shall be provided only to individuals residing within the contracted service area, which includes all of Berks County, except in circumstances specified below.
- 4.1.27.2.** BCAAA reserves the right to require the vendor to serve individuals residing outside the contracted service area to meet special needs or circumstances which may include, but are not limited to visiting Berks County consumers at hospitals or adult day care centers located 40 miles outside of the Berks County line.
- 4.1.27.3.** The vendor may serve individuals residing outside the contracted service area to meet special needs or circumstances only with prior BCAAA approval.

4.1.28. Hours of Operation

- 4.1.28.1.** CM Vendors are required to submit to the AAA written protocols for contacting key personnel both during operating hours and after hours.
- 4.1.28.2.** At least one professional staff member shall be available in the office during the CM Vendor's normal hours of operation. Monday through Friday between the hours of 8:00 AM and 5:00 PM.
- 4.1.28.3.** After normal hours, a recorded phone message shall be in place to advise callers of emergency or crisis intervention procedures. In addition, building signage and contact information on the CM Vendor web site shall be posted.
- 4.1.28.4.** An administrative or professional staff person shall be available on call when the CM Vendor's offices are closed.
- 4.1.28.5.** CM Vendors must address the needs of caregivers and participants who are not able to consult with care managers during normal working hours.
- 4.1.28.6.** CM Vendors shall submit annually to the BCAAA written documentation of their hours of operation and a list of holidays/closures.
- 4.1.28.7.** CM Vendors shall develop and maintain a detailed, written contingency plan outlining emergency operation and closure procedures and submit an updated copy to the BCAAA by the last business day of August, during the term of any agreement with BCAAA.
- 4.1.28.8.** The contingency plans shall include specific details about how communication between the CM Vendors and the BCAAA will occur with timelines and lines of responsibility specified.
- 4.1.28.9.** The CM Vendors emergency Plan shall be current, actionable, routinely updated, practiced, followed and in compliance with BCAAA Emergency Response Plan.

4.1.29. After Business Hours Operations

- 4.1.29.1. CM Vendors must address the needs of caregivers and participants who are not able to consult with care managers Monday through Friday from 8:00 a.m. – 4:30 p.m.
- 4.1.29.2. Care managers shall be included on the BCAAA on-call rotation schedule within 90 days after the contract has been signed.
- 4.1.29.3. On-call duties include but are not limited to conducting timely responses to after hour inquiries, protective services investigations, assisting with emergency relocation, and responding to crisis situations.
- 4.1.29.4. On-Call Hours shall be
 - 4.1.29.4.1. Monday through Thursday; 12:00 A.M. – 8:00 A.M.
Friday: 4:30 P.M. – 12:00 A.M.
Saturday: 24 hours
Sunday: 24 hours
- 4.1.29.5. Holidays in which BCAAA is closed; New Year’s Day, Martin Luther King Day, President’s Day, Good Friday, Easter, Memorial Day, Independence Day, Labor Day, Columbus Day, General Election Day, Veteran’s Day, Thanksgiving, Day After Thanksgiving, Christmas. Please note that these holidays are subject to change on a calendar year basis by the County of Berks Board of Commissioners.
- 4.1.29.6. Care managers, supervisors, and professional staff shall attend State designated protective service trainings. The State provides an initial (3) three-day training for employees new to protective services and then 1 annual recertification training thereafter. These number of trainings may change if the State alters the protective services requirements, annually to obtain and maintain certification to allow them to conduct protective services investigations per PA Code, Title 6, Chapter 15, Section 15.127.
- 4.1.29.7. An administrative or professional staff person shall be available during on-call hours to support their care management staff.

4.1.30. Hard Copy Documentation

- 4.1.30.1. All financial records, supporting documents and other CM Participant records shall be retained for four years after case closures or until all litigation, claims or audits have been resolved and final actions taken. Records may be stored in hard copy or electronic storage media. Records must be available to BCAAA to view for monitoring or auditing purposes. All documents with original signatures must be available in hard copy upon request. All hard copy records must be destroyed by a bonded company via a certificate of destruction form when ready to be purged. A hard copy of the following CM Participant documents must be kept on file.

- 4.1.30.1.1.** Financial Summary Sheet
- 4.1.30.1.2.** Medical Expense Worksheet, when applicable
- 4.1.30.1.3.** Individual Service Plan
- 4.1.30.1.4.** Voter Registration – 100% of participants are asked if they are registered to vote.
- 4.1.30.1.5.** Vendor Choice Form
- 4.1.30.1.6.** Living Expense Deduction
- 4.1.30.1.7.** HIPAA Form
- 4.1.30.1.8.** Freedom Choice Form
- 4.1.30.1.9.** All correspondence to, from, or about the CM Participant
- 4.1.30.1.10.** Follow-up documentation including written complaints and resolutions of service delivery problems
- 4.1.30.1.11.** Medical records or documentation, as needed

4.1.31. Minimum Systems Requirements

- 4.1.31.1.** The PDA mandates the use of SAMS as the CM Participant database for the CM Program. CM Vendors must utilize the SAMS database. A stand-alone installation installs a single instance of SAMS on a machine, with MSDE/SQL data base components, and requires the following:
- 4.1.31.2.** Windows 2000 SP 4 or higher (Windows 95, 98, Me, and NT not supported) A Windows logon with administrator authority during the installation process
- 4.1.31.3.** A windows logon with administrator authority during the installation process
- 4.1.31.4.** PC with Pentium III (at least 800MHz or higher)
- 4.1.31.5.** 256 MB of RAM
- 4.1.31.6.** 250 MB available hard-disk space for SAMS install, plus enough room for the data base
- 4.1.31.7.** CD-ROM
- 4.1.31.8.** Internet Explorer and Browser 6.0 or higher
- 4.1.31.9.** E-mail capability

4.1.32. System Updates

- 4.1.32.1.** CM Vendors must have the capability to respond to any changes in SAMS requirements indicated by the BCAAA or PDA during the term of the contract.

4.1.33. CM Organizational Changes

- 4.1.33.1.** In cases where CM agency changes ownership or undergoes a major restructuring, including major changes to the submitted organizational chart or acquisition of another entity, such change must be reported in writing to the BCAAA 30 days prior to the change or in urgent circumstances within 48 hours of confirmation of the change.
- 4.1.33.2.** Major organizational changes may result in the BCAAA conducting a full on-site review to assess continued adherence to the terms of the contract for CM services under the CM Vendors new structure. Continuation of the contract with BCAAA is contingent on a finding of the on-site review that the terms of the contract will be adhered to under the change or restructuring.

4.1.34. Personnel Requirements and Qualifications

- 4.1.34.1.** Care managers mobilize and draw on the personal resources and strengths of CM Participants, caregivers and families, as well as those of the external community to help CM Participants achieve the outcomes that will allow them to perform at their highest level of functioning.

- 4.1.34.1.1.** Bachelor of Science or Arts degree.

- 4.1.34.1.2.** Ability to work independently.

- 4.1.34.1.3.** Ability to coordinate CM participant appointments and travel scheduling efficiently, and report allowable expenses and billable hours accurately.

- 4.1.34.1.4.** Proficiency in the use of a personal computer or laptop with MS Office Suite software, cell (smart) phone and the Internet.

- 4.1.34.1.5.** Additional desired qualifications include at least one year of case management experience in human services, working knowledge of the provision of health care in various settings, and knowledge of community resources and care delivery systems.

- 4.1.34.2.** Supervisors oversee care managers who assist CM Participants and caregivers. Supervisors perform a number of functions within CM teams. These functions include, but are not limited to the following:

- 4.1.34.2.1.** Train and supervise new and current CM staff, and plan, assign, review and evaluate their work.

- 4.1.34.2.2.** Review, approve and sign off on case records and service plans.

- 4.1.34.2.3.** Assess the professional development, learning patterns and performance of subordinate staff, and assist them in developing social work skills.
- 4.1.34.2.4.** Assign work consistent with organizational policies and priorities, and the capabilities of subordinate staff.
- 4.1.34.2.5.** Determine procedures for resolving problems and issues according to sound case work practices and departmental policies.
- 4.1.34.2.6.** Confirm the eligibility for CM services of potential CM Participants and take responsibility for final decisions to accept or terminate CM Participants from programs.
- 4.1.34.2.7.** Develop procedures and controls to accomplish work within the framework of established laws, policies and priorities.
- 4.1.34.2.8.** Conduct group and individual conferences with staff to discuss assignments, the status of current cases, rules, regulations, policies and laws.
- 4.1.34.2.9.** Maintain records on work quality and quantity.
- 4.1.34.2.10.** Coordinate staff scheduling (including emergency, on-call and back-up coverage) and work with other units, evaluate staff performance and administer corrective actions.
- 4.1.34.2.11.** Prepare reports, correspondence and other communications, and perform research.
- 4.1.34.2.12.** Represent the unit in relationships with other internal units and external organizations.
- 4.1.34.2.13.** Evaluate policies and procedures and make recommendations to supervision and administrators to improve programs.
- 4.1.34.2.14.** Participate in the development of community resources and CM services.
- 4.1.34.3.** The Care Management Direct Supervisor (to staff) carries no permanent caseload or has three or fewer participants and has job responsibilities that are predominately within the CM unit only.
- 4.1.34.4.** Supervisors must have all the competencies required of care managers. They must demonstrate leadership qualities and abilities. In addition to the CM competencies indicated above, CM supervisors must possess the following minimum qualifications:
 - 4.1.34.4.1.** A Bachelor of Science or Arts degree and at least two years of CM experience.
 - 4.1.34.4.2.** Additional desired qualifications include an advanced degree in social services, psychology, social work or a related discipline, and leadership

training and experience on Continuous Quality Improvement or Quality Assurance programs.

4.1.35. CM Personnel Changes

4.1.35.1. The BCAA CM unit shall be notified within five working days of any changes or open positions for care managers and supervisors in the CM Program.

4.1.36. Professional Consultation and Additional Expertise

4.1.36.1. Care Management Vendors must be able to call upon external professionals to provide consultation and services in areas beyond the expertise or experience of internal CM staff (e.g., nursing, community resources, physical and occupational therapy, behavioral health and intellectual disabilities, substance abuse, financial affairs, care giving, physical medicine, etc.).

4.1.37. Criminal History Information

4.1.37.1. CM Vendors shall:

4.1.37.1.1. Require all employees to submit the original criminal history clearance from the PA state police (PATCH/Act 31 clearance) before rendering service to a participant. The report must be dated within one year prior to the employees start date.

4.1.37.1.2. Ensure that if PA residency is less than 2 consecutive years prior to the date of hire, an original FBI criminal history check, through the PA Department of Aging, is completed in addition to the PATCH. Substitute clearances are not acceptable.

4.1.37.1.3. Not work directly with CM Participants until the appropriate criminal clearance is received and documented in the employee's personnel file where it shall be maintained.

4.1.37.1.4. Notify applicants in writing if they are not hired, in whole or in part, based on criminal history record information.

4.1.38. SAMS Training

4.1.38.1. CM Vendors should have an adequate number of staff trained on SAMS so that service documentation is not disrupted in the event of the departure of SAMS-trained staff from the employment of CM Vendors.

4.1.39. Staff Training

4.1.39.1. All new CM staff is expected to successfully complete BCAA CM training (Tier 1 or 2) or equivalent (as determined by the BCAA and CM Vendor) within the first six months of employment.

4.1.39.2. Within 1 year, all CM staff must complete the core BCAA CM curriculum.

4.1.39.3. Within 3 months all new supervisors must complete the supervisor module or equivalent.

4.1.39.4. CM Vendors are also expected to have active staff development programs in place.

4.1.40. Responsibilities/Expectations of the Program Office (BCAAA)

4.1.40.1. BCAAA shall support the service vendor in meeting service standards and requirements by providing the following:

4.1.40.1.1. Developing interim program policies and procedures to meet all Pennsylvania Department of Aging and local requirements during the life of this contract.

4.1.40.1.2. Program Monitoring and evaluation to assure compliance with the specifications and terms of this contract.

4.1.40.1.3. Specifying procedures for initiation and termination of service.

4.1.40.1.4. Technical assistance as needed regarding program requirements.

4.1.40.1.5. Technical assistance, direction and cooperation to assist the service vendor in satisfactorily recording program and service data into the appropriate information management system (SAMS).

4.1.40.2. Proposer will be expected to work cooperatively as a community partner in the County's effort to implement a unified system of care that maximizes all resources around an individual or family to meet their goals. Services should be delivered from a strengths-based, family centered perspective. The Proposer shall participate in trainings, meetings, forums, etc. offered about implementing the System of Care "Best Practice Guidelines" and fully cooperates in supporting a System of Care approach by participating in single plan of care meetings for individuals and families served through the Proposer.

4.2. Family Caregiver Support Program

4.2.1. Purpose

4.2.1.1. The County of Berks is seeking a vendor to facilitate the Family Caregiver Support Program for the Berks County Area Agency on Aging. FCSP is a subsidiary program of the Care Management (CM) Program and is a required part of CM services.

4.2.1.2. The Family Caregiver Support Program (FCSP) is designed to assist family and other unpaid adult primary caregivers caring for the functionally dependent older persons and adult relatives with chronic dementia. The program's goal is to reduce caregiver stress and burden through benefits and resource counseling, access to support groups, care giving skills training and education, support and financial reimbursement for expenses incurred in purchasing care giving related services

(including respite), supplies, durable goods, home modifications and assistive technology.

- 4.2.1.3. The Family Caregiver Support Program also includes the Grandparent Program which allows assistance for a grandparent or older relative (but not the parent) age 55 and above to act as the primary caregiver for a child under the age of 18 which lives in the same household.
- 4.2.1.4. The total number of consumers on average that are served per year is 98.
- 4.2.1.5. The quantities identified herein were obtained utilizing historical data and provided for informational purposes. There are a variety of factors that may impact these figures, it shall be the responsibility of the Vendor to identify and ensure that these are accounted for within their respective proposal submission.
- 4.2.1.6. Utilizing the 2020/2021 Block Grant as a basis the County of Berks estimates it will have an aggregate dollar figure of \$170,000 for all services identified herein.

4.2.2. Definitions

- 4.2.2.1. Caregiver education or caregiver training: Services that provide instruction or training to family caregivers, in groups or individually, in general and specific information or skills required in the care of functionally impaired older persons.
- 4.2.2.2. Care receiver/Consumer: A functionally dependent older adult or other adult with chronic dementia such as Alzheimer's disease who is being cared for by a relative who lives in the same residence.
- 4.2.2.3. Functionally Dependent: Requiring enough assistance with one or more activities of daily living to be deemed by the area agency on aging to need continuous care or supervision. Limitations contributing to the functional dependency may include physical or cognitive impairments.
- 4.2.2.4. OPTIONS: A program operated by the Department of Aging for persons who need long term care because they are functionally disabled. The program provides a continuum of assessment, care management and services, which may make it possible for the functionally disabled person to be maintained in the community as an alternative to institutional placement.
- 4.2.2.5. Primary Caregiver: The one identified relative who has assumed the primary responsibility for the provision of care needed to maintain the physical or mental health of a functionally dependent older adult or other adult suffering from chronic dementia such as Alzheimer's disease.

4.2.3. Requirements

- 4.2.3.1. FCSP consumers must meet requirements of the Pennsylvania Caregiver Support Program (PACSP) and/or the National Family Caregiver Support Program

(NFCSP). Mandatory requirements and provisions in the Pennsylvania FCSP statute are:

- 4.2.3.1.1.** Functional dependent older caregivers must be 60 years of age or older and have one (1) or more activities of daily living (ADL) deficiencies (score of three or higher on the Level of Care Assessment (LOCA), meaning at least needing supervision, set-up, cueing or coaxing to perform the ADL.
- 4.2.3.1.2.** The primary caregiver must be at least 18 years of age.
- 4.2.3.1.3.** The primary caregiver and care receiver must be related and live in the same household.
- 4.2.3.1.4.** Serves adult care receivers with chronic dementia such as Alzheimer's disease regardless of age, in addition to over age 60 functionally dependent persons.

4.2.3.2. Mandatory requirements and provisions in the Federal FCSP Act are:

- 4.2.3.2.1.** Functionally dependent older care receiver must be 60 years of age or older and have two (2) or more ADL deficiencies (score of 3 or higher on LOCA, meaning at least needing supervision, set-up curing or coaxing to perform the ADL.
- 4.2.3.2.2.** The primary caregiver must be at least 18 years of age.
- 4.2.3.2.3.** No requirement for primary caregiver and older care receiver (age 60 and older) to be related or live in the same household.
- 4.2.3.2.4.** Grandparents or relative caregivers, providing care for adult relatives with disabilities, who are between 19 and 59 years of age, can be served under the NFCSP. These caregivers must be age 55 years and older and cannot be the care receivers' parent. Priority shall be given to those older caregivers providing care for an adult with severe disabilities. Services provided to these caregivers shall not be counted against the 10% ceiling for services to support grandparents and other caregivers of children age 18 or younger.
- 4.2.3.2.5.** Under the provisions of the Grand parenting program. Up to 10% of Federal FCSP funds may be spent on services for older (age 55 and above) related primary caregivers of children age 18 or younger, living in the same household. Priority must be given to those older related primary caregivers of children with severe disabilities.
- 4.2.3.2.6.** Caregivers of older individuals with dementia or related disorders are to receive priority for service, as are older caregivers with greatest economic and social need and older individuals who care for persons of any age with severe disabilities.

4.2.3.3. Aging Program Directive (APD)/Federal/State Regulatory Reference and Compliance

4.2.3.3.1. Organizations providing services outlined in this Scope of Service shall comply with all federal and state directives listed below:

4.2.3.3.2. Pennsylvania Department of Aging APD 10-01-02
http://www.portal.state.pa.us/portal/server.pt/document/797643/apd_10-01-02_pdf

4.2.3.3.3. Pennsylvania Code, Title 6, Chapter 15: Protective Services for Older Adults
http://www.pacode.com/secure/data/006/chapter15/006_0015.pdf

4.2.3.3.4. Pennsylvania Code, Title 6, Chapter 20: Family Caregiver Support Program
<http://www.pacode.com/secure/data/006/chapter20/chap20toc.html>

4.2.3.3.5. The safety of consumers, employees, and volunteers is paramount; therefore, the provider(s) must emphasize the importance of following Centers for Disease Control and Prevention (CDC) and Pennsylvania Department of Health (DOH) guidelines for mitigating the spread of the COVID-19 virus.

4.2.3.4. This Scope of Services is subject to change based on changes to the above directives.

4.2.4. Performance Evaluation

4.2.4.1. The vendor shall:

4.2.4.1.1. Maintain separate sets of accounting detail records for disbursement of funds provided by BCAA for each of the State and Federal reimbursement programs.

4.2.4.1.2. Monitor their budget on a monthly basis to ensure compliance with the budgeting requirements set forth in APD #10-01-02.

4.2.4.1.3. Receive caregiver reimbursement information from BCAA monthly and prepare checks for caregiver reimbursement corresponding exactly to the information received.

4.2.4.1.4. Mail the reimbursement check through the U.S. Postal Service first class mail to the participant within five (5) business days of receipt of the reimbursement information of BCAA.

- 4.2.4.1.5. Prepare two-party checks per the instructions of BCAA to identified program participants.
- 4.2.4.1.6. Be accountable to BCAA for all of its activities related to reimbursement of FCSP participants.
- 4.2.4.1.7. Submit two sets of detail reports; one (1) to BCAA and one (1) to the care management vendor's agency.
- 4.2.4.1.8. Have the capacity to retrieve and submit consumer data, information, reports and other communication through electronic internet capabilities within three (3) business days as specified by BCAA.
- 4.2.4.1.9. Failure to receive or read BCAA communications sent to the service vendor's e-mail address in a timely manner does not absolve the service vendor from knowing, responding to or complying with the content of that communication.
- 4.2.4.2. The Berks County Area Agency on Aging (BCAA) measures vendor performance monthly by reconciling reports for checks delivered to caregivers with services invoiced.

4.2.5. Service Standards, Reporting, and Documentation Requirements

4.2.5.1. Reimbursement Component

- 4.2.5.1.1. Eligibility for the FCSP reimbursement is based on the total household income for the care receiver. In the State FCSP, if income is above 380% of poverty, the family is ineligible for the program. In federal FCSP, if income is above 380% of poverty, the family is eligible to participate in the FCSP, but 100% cost sharing for reimbursement benefits will be incurred, effectively eliminating reimbursement benefits.
- 4.2.5.1.2. For both the Federal and State FCSP, core services such as assessment, care management, benefits counseling, and caregiver education and training will be provided at no cost for eligible families, regardless of income. In both the State and Federal FCSP, families with household income at or below 200% of poverty receive full reimbursement benefits. Families with household income above 200% and at or below 380% are subject to a sliding reimbursement scale. (See FCSP Cost Sharing Guide)
- 4.2.5.2. Refer to APD #10-01-02 for income inclusions and exclusions.
- 4.2.5.3. Caregiver reimbursement services include, but shall not be limited to the following:

- 4.2.5.3.1. Check processing
- 4.2.5.3.2. Mailing reimbursements to designated participants
- 4.2.5.3.3. Monthly accounting reconciliations with BCAA

4.2.6. Vendor Requirements

4.2.6.1. The vendor shall perform the following services including, but not limited to:

- 4.2.6.1.1. Inform caregivers about available services.
- 4.2.6.1.2. Assist caregivers in obtaining access to the services.
- 4.2.6.1.3. Provide training and support to caregivers to assist them in making decisions and resolving issues related to their care giving roles.
- 4.2.6.1.4. Respite Care to enable caregivers to be temporarily relieved from their care giving responsibilities.
- 4.2.6.1.5. Provide financial reimbursements for supplemental services to include, but not limited to:
 - 4.2.6.1.5.1. Home modifications
 - 4.2.6.1.5.2. Assistive devices to help to carry out an activity of daily living, such as a walker, while participating in the CM Program.
- 4.2.6.1.6. Direct, supervise and provide staff to satisfy the terms of the contract and Scope of Service.
- 4.2.6.1.7. At no time accept voluntary contributions from the participant or participant's family as this is specifically prohibited.
- 4.2.6.1.8. Provide caregivers with quarterly updates (i.e. via mail/e-mail of support group lists, reading recommendations, and websites) and community educational opportunities to support their care giving role.
- 4.2.6.1.9. Ensure that all FCSP caregivers/care receivers receive a minimum of one monthly contact, either by telephone or face-to-face.
- 4.2.6.1.10. The FCSP/NFCSP includes the Grandparents Raising Grandchildren Program.
 - 4.2.6.1.10.1. Grandparents include any adult relative, such as an aunt or uncle, 55 years of age or older who are the primary caregiver

and reside with the child/children 18 years or younger who are not their own.

- 4.2.6.1.10.2. This is a cost-sharing approach to care giving. Income eligible caregivers may be reimbursed for no more than \$500.00 a month.
- 4.2.6.1.10.3. Lifetime grants up to \$2,000.00 may also be provided to qualified families for supplemental services such as modifying the home or purchase assistive devices to help a frail relative. Examples of adaptations include stair glides and ramps.
- 4.2.6.1.10.4. Additional benefits to be provided shall include supportive counseling, educational information, and financial information.

4.2.7. Responsibilities/Expectations of the Program Office (BCAAA)

4.2.7.1. BCAAA will support the vendor in meeting service standards and requirements by providing the following:

- 4.2.7.1.1. Verbal communication and written correspondence regarding mandated applicable Pennsylvania Department of Aging and Berks County requirements, and any changes to these requirements, that occur during the contract period.
- 4.2.7.1.2. Program monitoring and evaluation to assure compliance with Pennsylvania Department of Aging and Berks County requirements specified in the terms of this contract.
- 4.2.7.1.3. Verbal communication and written correspondence regarding the outcome of program monitoring and evaluation activities.
- 4.2.7.1.4. Technical assistance, as needed, regarding program requirements as detailed in APD #10-01-02.

4.2.8. Program Plans

- 4.2.8.1. The contracted vendor shall submit annually a plan to BCAAA, which shall include the following information:
 - 4.2.8.1.1. An organizational chart, which illustrates the staffing, and flow of decision making for the Program.
 - 4.2.8.1.2. A discussion of how the agency will assign casework staff to the Program to achieve and maintain the consistency relating to assessment and care management.

- 4.2.8.1.3. A training plan, which describes special training for staff persons to be assigned to the program.
 - 4.2.8.1.4. A description of the procedures to be used for reimbursing caregivers.
 - 4.2.8.1.5. A description of strategies for strengthening or developing a local network of family caregiver resources.
 - 4.2.8.1.6. An explanation of how all ethnic groups and economic levels of the community are effectively reached by the program.
 - 4.2.8.1.7. A description of strategies for carrying out caregiver education so that different kinds of caregiver education needs are met. Caregiver education shall involve, to the extent possible, the participation of existing community resources. These efforts may include support groups if appropriate.
 - 4.2.8.1.8. A 12-month operating budget on a form provided by the Department of Aging.
- 4.2.9. Proposer will be expected to work cooperatively as a community partner in the County’s effort to implement a unified system of care that maximizes all resources around an individual or family to meet their goals. Services should be delivered from a strengths-based, family centered perspective. The Proposer shall participate in trainings, meetings, forums, etc. offered about implementing the System of Care “Best Practice Guidelines” and fully cooperates in supporting a System of Care approach by participating in single plan of care meetings for individuals and families served through the Proposer.

4.3. Qualifications / Experience

4.3.1. Proposing Firm

- 4.3.1.1. The proposing firm shall at minimum:
 - 4.3.1.1.1. have three (3) years’ experience in Pennsylvania, facilitating the Care Management and Family Caregiver Support Programs;
 - 4.3.1.1.2. have demonstrated past performance related to the ability to meet schedules and deadlines
 - 4.3.1.1.3. have demonstrated past exceptional performance related to developing and implementing programming
- 4.3.1.2. It is important to note that “proposing firm” refers to the company that would enter into the Agreement with the County. To be considered, the proposing firm must meet or exceed the benchmarks set forth above on its own merit. The experience and qualifications of firms that the proposing firm will partner with in the performance of this Program, cannot be used to bring a proposing firm’s less than

required experience and qualifications up to the benchmark. Also, important to note is that the County is not interested in a joint venture Program but prefers to enter into the Agreement with a single entity.

- 4.3.1.3. Each proposing firm shall certify that it is not currently under suspension or debarment by the Commonwealth of Pennsylvania or federal government. If the proposing firm cannot so certify, then it shall submit a written explanation of why such certification cannot be made.

4.3.2. Program Team

- 4.3.2.1. The program manager shall at minimum:

- 4.3.2.1.1. have three years' experience in Pennsylvania, facilitating the Care Management and Family Caregiver Support Programs
- 4.3.2.1.2. on past projects have demonstrated skills, technical knowledge, and administrative capability to serve all the requirements of the proposed program
- 4.3.2.1.3. possess certifications, licenses and proficiency in the application of requirements and guidelines as applicable.

- 4.3.2.2. The Program team shall at minimum:

- 4.3.2.2.1. have three (3) years' experience in facilitating a Care Management and Family Caregiver Support Programs
- 4.3.2.2.2. on past programs have demonstrated skills, technical knowledge, and administrative capability to serve all the requirements of the proposed program specifications.

4.4. Program Timeline

The successful Proposer(s) will be required to begin the work by January 1, 2021 upon receipt of the County's issuance of the notice to proceed.

SECTION 5 - Proposal Format and Content

5.1. Submission of Proposal

- 5.1.1. Proposals shall be submitted with one (1) original and four (4) copies printed on 8½" x 11" paper, and one (1) electronic copy of the Proposal and an electronic excel file of Price Proposal on a CD or thumb drive to: County of Berks, c/o County Controller, Berks County Services Center, 633 Court Street, 12th Floor, Reading, PA, 19601. The original Proposal shall be marked "original" and each copy of the Proposal must be a complete copy of the original including all attachments and appendixes. **Proposals received after the Proposal Deadline will not be considered.** As there have been mail delays in the past, Proposer shall mail any RFP response with sufficient lead time to allow for such delays in the delivery.

- 5.1.2.** Proposals shall be submitted in two (2) parts – a “Technical Proposal” and “Price Proposal”. The Technical Proposal shall cover the technical aspects of the Services but shall not include any mention of proposed fees or out-of-pocket expenses. The Price Proposal shall include all details as required under Section, Clause 5.12. The Technical Proposal and the Price Proposal shall be submitted in separate sealed, opaque envelopes or containers with the words “Sealed Technical Proposal – RFP #20-18-CN” and “Sealed Price Proposal – RFP #20-18-CN” clearly printed on the outside of each package. Proposals received via facsimile will not be considered.
- 5.1.3.** Each Proposal section enumerated in paragraph 5.3 – 5.12 must be clearly identified and tabbed in the submitted Proposal.

5.2. Proposal Format

The County discourages overly lengthy and costly proposals; however, Proposers should follow the format set out herein and provide all of the information requested. For a Proposal to be considered, Proposers must follow the instructions outlined in this RFP.

5.3. Transmittal Letter

Proposals shall include a brief letter which provides the company’s name; address of the main office and any branch offices; telephone and fax number for each office; name, title, telephone number, fax number, and email address of the company’s contact person for this program; a statement that the Proposal is in response to this RFP; and the signature, typed name, and title of an individual who has *actual authority** to commit the Proposer to the Proposal. The transmittal letter shall also include an acknowledgement of each RFP addendum received (if applicable), and a statement that the Price Proposal is valid for at minimum ninety (90) days from the Proposal opening date.

**Proposals by individuals must be signed personally, with name typed below signature, and witnessed. A complete address and trade name must be provided. Proposals by partnerships must include the typed names and business address of all partners and the trade name of the company. The Proposal must be signed by at least one general partner, whose signature must be witnessed. Proposals by corporations must include the typed name of the corporation, the State of incorporation, and the principal officer of the corporation. The Proposal must be signed by the President or Vice-President (or by an officer or agent duly authorized to bind the corporation to a contract, proof of whose corporate authority shall be attached), and attested by the Secretary, Assistant Secretary, or Treasurer of the corporation.*

5.4. Understanding of the Services

Proposers must provide a comprehensive narrative statement that illustrates their understanding of the requirements of the Services, and illustrates how their methodology will serve to accomplish the work and meet the County’s schedule. Proposers must describe how they will approach the Services; describe the methods and frequency of interface between your program team members and the County’s program team members in performing the Services; and indicate how often the program manager and the program team members will be on site in the performance of Services.

5.5. Qualification Statement

- 5.5.1.** Each Proposal shall include, at minimum, the following information about the company:

- 5.5.1.1.** The number of years the company has been in business.

- 5.5.1.2. The number of years the company has facilitated Care Management and Family Caregiver Support Program services.
 - 5.5.1.3. The type of organization of the company. (i.e. Corporation, Partnership, Sole Proprietorship).
 - 5.5.1.4. The names and titles of the company's principles.
 - 5.5.1.5. The company's most recent annual report or the company's most recent income statement, balance sheet, and statement of cash flow accompanied by an auditor's report attesting to the accuracy of these financial statements.
- 5.5.2. The following questions should be answered thoroughly as part of the Proposal:
- 5.5.2.1. What is the company's main business focus?
 - 5.5.2.2. What are the strengths of the company and how will the County benefit from those strengths?
- 5.5.3. Each Proposal shall address the company's qualifications for the development and completion of the Services based on the following:
- 5.5.3.1. List and describe the company's experience with Care Management and Family Caregiver Support programs. For each listed program include: name and location of program; reference contact name; and telephone number; email address; actual total program cost and number of consumers served; program start date and end date; and summary description of the program. Additionally, include one monitoring report that was supplied to each agency/government.
 - 5.5.3.2. Identify the program manager and submit this individual's credentials (work/program experience and education), evidencing the experience required in Section 4, Clause 4.42.2.1 herein. List the names and titles of your planned program team members and describe their individual levels of experience and expertise with this type of program, evidencing the experience required in Section 4, Clause 4.42.2.2 herein. Include an organizational chart showing the reporting structure of the team members.
 - 5.5.3.3. Describe the company's capacity to execute the Services within the proposed term. Describe the company's willingness and ability to commit personnel to meet the scope and schedule of the Services. (Include a list of current programs and the anticipated end dates of these programs.)

5.6. Conflict of Interest

- 5.6.1. Each Proposal shall include a conflict of interest statement indicating whether or not any principals in the company, their spouse, or their child is employed by the County of Berks, and whether or not the company or any individuals providing Services has a possible conflict of interest, and, if so, the nature of that conflict. Furthermore, Proposers shall complete the Non-Collusion Affidavit Form attached to this RFP as Attachment C and submit an executed copy with its Technical Proposal.

- 5.6.2. To preserve the integrity of County employees and elected officials and to maintain public confidence in the RFP process, the County prohibits the solicitation or acceptance of anything of value by a County employee or elected official from any person seeking to initiate or maintain a business relationship with County departments, boards, commissions, and agencies.
- 5.6.3. Proposers shall not pay any salaries, commissions, fees, or make any payments or rebates to any employee, elected official of the County or their designees. Nor shall any Proposer favor any employee, elected official of the County or their designees with gifts or entertainment of significant cost or value, or with services or goods sold at less than full market value.
- 5.6.4. The County reserves the right to disqualify a Proposer or cancel an award of the Agreement if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the program to be performed by the Proposer. The County's determination regarding any question of conflict of interest shall be final.

5.7. Subcontractors

- 5.7.1. Subcontractors may be used to perform portions of Services. If a Proposer intends to use subcontractors, the Proposer must identify in its Proposal the names of the subcontractors and the portions of Services the subcontractors will perform in its Proposal. Proposals must contain the following information concerning each prospective subcontractor:
 - 5.7.1.1. Complete name of the subcontractor.
 - 5.7.1.2. Complete address of the subcontractor.
 - 5.7.1.3. Type of Services the subcontractor will be performing.
 - 5.7.1.4. Percentage of Services the subcontractor will be performing.
 - 5.7.1.5. Evidence that the subcontractor holds a valid Pennsylvania business license.
 - 5.7.1.6. A written statement, signed by each proposed subcontractor, that clearly verifies that the subcontractor is committed to render the Services required.
- 5.7.2. A Proposer's failure to provide this information in its Proposal may cause the County to consider the Proposal non-responsive and reject the Proposal.

5.8. Insurance

Each Proposer must provide with its Proposal a sample certificate of insurance evidencing, at minimum, the insurance coverage types and levels set forth in the Proposed Form of Agreement and General Conditions.

5.9. Counter Terms

The Proposer shall specify any exceptions or objections taken to this RFP or the Proposed Form of Agreement and General Conditions, attached hereto as Attachment A, for the County to consider when evaluating the Proposal. Each provision the Proposer takes exception to

shall be specifically identified (including a citation to the paragraph such provision is found) with the Proposer’s suggested modification. It is understood that the Proposer takes no exception to the provisions of the RFP and form of Agreement not specifically identified as an exception or objection in this section of its Proposal.

5.10. Program Schedule

Proposals shall include the Proposer’s planned program schedule during the term of the Agreement.

5.11. Alternative Proposals

Proposers are encouraged to review the scope of Services created by the County and the various task requirements called for within the scope of the Scope of Work. If the Proposer believes that there are alternate methods for meeting any of the RFP requirements different than those envisioned by the County, the Proposer should detail these and submit them as a separate section within the Proposal.

5.12. Price Proposal (the paper and electronic Price Proposal shall be submitted in a separate sealed envelope)

5.12.1. Price Proposal (the Price Proposal shall be submitted in a separate sealed envelope for the hard copy and a separate memory stick or CD for the electronic version)

Care Management & Caregiver Support Program Monthly Cost Breakdown	Years 1 - 3
Salaries by Position:	
Program Director	
Program Supervisor(s)	
Care Managers	
Support Staff	
Other (List)	
Subtotal	
Fringes to Position:	
Program Director	
Program Supervisor(s)	
Care Managers	
Support Staff	
Other (List)	
Subtotal	
Occupancy:	
Rent	
Utilities (List)	
Building & Ground	
Maintenance	
Building Insurance	
Other (List)	
Subtotal	

Care Management & Caregiver Support Program Monthly Cost Breakdown	Years 1 – 3
Communications:	
Telephone	
Printing (List)	
Other (List)	
Subtotal	
Supplies/Minor Equipment:	
Equipment Maintenance	
Office Supplies	
Program Supplies	
Minor Equipment (List)	
Subtotal	
Other Operating Costs:	
Staff Training (includes Travel)	
Liability Insurance	
Other (List)	
Subtotal	
Fixed Assets (List)	
Other (List)	
Subtotal	
Total Annual Cost (equal to total of all subtotals here)	
Total Monthly Cost/Fee	

- 5.12.2.** The Agreement resulting from the award of this RFP will be for a set fee amount and shall not exceed \$_____ for Care Management Program for Year 1 and \$_____ for Family Caregiver Program for Year 1. Additional years will be determined at a later date.
- 5.12.3.** Capitalized fixed assets Vendor shall include depreciation expense.
- 5.12.4.** Proposers are to take into account the project funding available from the services outlined herein as identified in Section 4, Scope of Work. Refer to Attachment A, Proposed Form of Agreement and General Conditions, Clause 11, 40, and 41 for further details pertaining to finding and allocation.
- 5.12.5.** The above form shall be uploaded to the website as Attachment G - Price Proposal Form.

SECTION 6 - Evaluation Criteria and Process

- 6.1. A committee of County personnel representing the functions of the Berks County Area Agency on Aging will review and evaluate Proposals submitted in response to this RFP (“Evaluation Committee”). The proceedings of the Evaluation Committee are confidential. Members of the Evaluation Committee are not to be contacted by the Proposers. All communication between a Proposer and the County shall be through Candace L. Noll, Contract Manager.
- 6.2. Proposals will be evaluated against the following criteria using a pass/fail determination.
 - 6.2.1. Financial stability of the Proposer (based on our examination of the required financial statements).
 - 6.2.2. Compliance with the essential minimum experience and qualifications of the Proposer.
 - 6.2.3. Compliance with the essential minimum experience and qualifications of the program team members.
 - 6.2.4. Evidence of sufficient levels of insurance coverage.
- 6.3. Proposals must pass this first tier evaluation to move on to the second-tier evaluation described below.
 - 6.3.1. Proposals will be evaluated against the following criteria using point-rated scoring.
 - 6.3.1.1. **Price**
 - 6.3.1.2. **Ability (Resource Commitment)** – The Proposer’s ability to perform the required service expeditiously. The Proposer must have the resources to be capable of meeting the required program completion schedule.
 - 6.3.1.3. **Competence (Qualifications of Personnel)** – The Proposer’s competence in performing the required service as indicated by the training, education and experience of the personnel assigned to the program team. The Proposer must have in their possession all appropriate and required certifications, permits, and licenses.
 - 6.3.1.4. **Past Performance** – The Proposer’s past performance on similar programs. If the County cannot verify references based on the information provided in the Proposal, the scoring for this criteria factor may be affected.
 - 6.3.1.5. **Quality and Feasibility (Technical & Organizational Approach)** – The quality and feasibility of the Technical Proposal and the Proposer’s understanding of the program’s requirements and the overall goals and objectives of the program.
 - 6.3.1.6. **Proposal Content/Format** – The Proposal’s compliance with the content and format requirements of the RFP.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT
AND GENERAL CONDITIONS

AGREEMENT #

THIS AGREEMENT (“Agreement”) is entered into by and between the **County of Berks** with offices at Berks County Services Center, 633 Court Street, Reading, Pennsylvania, 19601 (hereinafter “County”) and **Vendor** with offices at [] (hereinafter “Vendor”).

Background

The County desires to engage the Vendor for the facilitation of Care Management and Family Caregiver Support Programs in accordance with the requirements set forth in the County’s Request for Proposal #20-18-CN inclusive of all addendums (“RFP”), and Vendor’s Proposal thereto dated **Month Day, Year**, both of which are incorporated in this Agreement by reference.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. Definitions

Capitalized terms not defined herein shall have the meaning set forth in the RFP.

2. Engagement

Subject to the terms and conditions set forth in this Agreement, the County hereby engages the Vendor to perform the Services set forth in the RFP on behalf of the County consistent with the terms of this Agreement.

3. Term of Agreement

This Agreement shall be effective January 1, 2020 through June 30, 2023 unless terminated in accordance with the terms and conditions of this Agreement.

4. Scope of Work

4.1. The Services shall include, without limitation, the facilitation of the Care Management and Family Caregiver Support Programs. Care Management Program is designed to integrate care plan implementation, evaluation, monitoring and aide in providing assistance to functionally impaired older adults at least 60 years of age to obtain the necessary services to ensure that they are safely care for within their home and community. The Family Caregiver Support Program (FCSP) is designed to assist family and other unpaid adult primary caregivers caring for the functionally dependent older persons and adult relatives with chronic dementia.

4.2. The following County employee(s) are hereby authorized to place orders under this Agreement:

- 4.2.1. Jessica Jones
- 4.2.2. Todd Reinert

5. Time is of the Essence

Time is of the essence in the performance of this Agreement. The schedule for the performance of Services is identified in RFP #20-18-CN. If the completion of Services is delayed, the County reserves

**ATTACHMENT A – PROPOSED FORM OF AGREEMENT
AND GENERAL CONDITIONS**

the right, without liability, and in addition to its other rights and remedies, to terminate this Agreement by notice, and to procure substitute Services from another vendor. The Vendor shall reimburse the County for the costs to procure substitute Services.

6. Fees

As set forth in Vendor’s Price Proposal dated _____, including the Best & Final Offer dated _____.

Care Management & Caregiver Support Program Monthly Cost Breakdown	Years 1 – 3
Salaries by Position:	
Program Director	
Program Supervisor(s)	
Care Managers	
Support Staff	
Other (List)	
Subtotal	
Fringes to Position:	
Program Director	
Program Supervisor(s)	
Care Managers	
Support Staff	
Other (List)	
Subtotal	
Occupancy:	
Rent	
Utilities (List)	
Building & Ground	
Maintenance	
Building Insurance	
Other (List)	
Subtotal	
Communications:	
Telephone	
Printing (List)	
Other (List)	
Subtotal	

**ATTACHMENT A – PROPOSED FORM OF AGREEMENT
AND GENERAL CONDITIONS**

Care Management & Caregiver Support Program Monthly Cost Breakdown	Years 1 - 3
Supplies/Minor Equipment:	
Equipment Maintenance	
Office Supplies	
Program Supplies	
Minor Equipment (List)	
Subtotal	
Other Operating Costs:	
Staff Training (includes Travel)	
Liability Insurance	
Other (List)	
Subtotal	
Fixed Assets (List)	
Other (List)	
Subtotal	
Total Annual Cost (equal to total of all subtotals here)	
Total Monthly Cost/Fee	

The Agreement resulting from the award of this RFP will be for a set fee amount and shall not exceed \$_____ for Care Management Program for Year 1 and \$_____ for Family Caregiver Support Program for Year 1. Additional years will be determined at a later date.

7. Notices and Program Manager

All necessary coordination and communication required to carry out this Agreement, including meetings between the parties, as well as all written notices, shall be done through the individuals indicated below. Written notices shall be effective when delivered by hand, or if sent by registered or certified mail, or verified facsimile, or by confirmed courier to the address of each party indicated below.

**ATTACHMENT A – PROPOSED FORM OF AGREEMENT
AND GENERAL CONDITIONS**

	<i>County:</i>	<i>Vendor:</i>
Attention	Acting Director, Berks County Area Agency on Aging	
Address	633 Court Street 8th Floor, Services Center Reading, PA 19601	
Telephone	610-478-6500	
Fax	610-478-6886	
Email	jjones@countyofberks.com	

Written notices shall be copied to: County of Berks, Attn: Kelly A. Laubach, Berks County Services Center, 633 Court Street, 13th Floor, Reading, PA, 19601. Fax: 610-898-7404.

8. Invoicing / Payment

- 8.1. **Invoices must reference the above noted Agreement number.** Original invoices shall be submitted to: County of Berks, Attn: Fiscal Manager, Berks County Area Agency on Aging, 8th Floor, Services Center, Reading, PA 19601.
- 8.2. Vendor may submit invoices no more than once per month for Services properly performed under this Agreement. No advance payments or billings are allowed. Payment by the County shall require the submittal of an itemized invoice, which shall include, but not be limited to, a description of the Services performed, the associated fee for each task, and the date(s) of performance for each task. The County shall render payment within forty-five (45) days of the County's receipt of a properly prepared invoice. Payment shall be considered made when the County mails the check. Undisputed amounts unpaid after thirty (30) days of the County's receipt of a properly prepared invoice shall bear interest at a rate of three percent (3%) per annum.

9. Insurance

- 9.1. The Vendor, at its sole expense, shall carry and maintain, in full force at all times during the term of this Agreement, the following insurance coverages:
 - 9.1.1. Comprehensive General Liability insurance covering bodily injury and property damage with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate;
 - 9.1.2. Commercial Automobile Liability insurance with a combined single limit of not less than \$1,000,000;
 - 9.1.3. Professional Liability insurance with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate;
 - 9.1.4. Umbrella/Excess Liability insurance with limits of not less than \$2,000,000 per occurrence and \$2,000,000 aggregate; and

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 9.1.5. Worker’s Compensation insurance in statutory limits; and Employer’s Liability insurance with limits of not less than \$100,000 each accident, \$500,000 disease-policy limit, and \$100,000 disease-each employee.
- 9.2. Prior to the commencement of the performance of Services, Vendor shall furnish to the County a certificate of insurance evidencing all required coverage with at least the limits required herein, naming the County of Berks, its elected officials, agents, and employees as Additional Insured for “ongoing operations” and “products and completed operations” for a period of three (3) years after final payment under the Commercial General Liability Coverage. Coverage should be provided by ISO Endorsements CG20 10 07 04 and CG2037 07 04 or their equivalent. Vendor’s Commercial General Liability and Umbrella/Excess Policy shall be Primary to and will not require contribution from any other insurance under which the Additional Insured is a Named Insured. To the fullest extent permitted by applicable state law, all policies shall contain a Waiver of Subrogation Clause. The County of Berks reserves the right to waive the waiver of subrogation for any and all worker’s compensation policies that are provided under the State Worker’s Insurance Fund (SWIF). The Certificate shall note the program and provide that no policies may be cancelled without thirty (30) days advance notice to the County. Such certificate shall be issued to: County of Berks, Attn: Contract Coordinator, 633 Court Street, 13th Floor Services Center, Reading, PA 19601. All insurance policies shall be in effect with companies holding an A.M. Best rating of “A-” or better or financial rating of IX or better with the A.M. Best’s Company Key Rating, Guide Latest Edition and shall be licensed or authorized to do business in the Commonwealth of Pennsylvania. Such companies shall also be acceptable to the County. Said policies shall remain in full force and effect until the expiration of the terms of the Agreement or until completion of all duties to be performed hereunder by the Vendor, whichever shall occur later.

10. Precedence

Where a conflict exists between the RFP and the Vendor’s Proposal, the Vendor shall provide the higher quality or quantity of Services except as specifically addressed in this Agreement. Where a conflict exists between these General Conditions and RFP or the Vendor’s Proposal, the terms of these General Conditions shall prevail.

11. Availability of Appropriated Funds

The parties agree that any and all payments due from the County, as required under the terms of the Agreement, are contingent upon the availability of appropriated funds.

12. Taxes

The County is exempt from all Federal excise and transportation taxes, and Pennsylvania sales and use tax. The County’s registration number with the Internal Revenue Service is 23-6003049. No exemption certificates are required, and none will be issued. Nothing in this paragraph is meant to exempt the Vendor from the payment of any applicable sales tax or use tax required to be paid with respect to its purchase or use of tangible personal property used or transferred in connection with its performance of Service. Only the County is required by law to pay any excise tax and then seek a refund or credit, the Vendor may separately charge the County the amount of the tax as a reimbursable expense.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

13. Ownership of Work Product

The County, its departments, employees, agents or assigns shall have the unrestricted right and authority to reproduce, distribute and use in whole or in part any submitted report or written materials generated by the Vendor in the performance of this Agreement. The ownership and right of control of all reports, records, and supporting documents prepared in connection with the services contemplated herein shall vest exclusively with the BCAA and shall remain, at all times, at the Vendor's Office, with a copy sent to the BCAA, however, that Vendor shall have such right of access to such reports, records, and supporting documentation as necessary for the provision of professional services hereunder. The Vendor shall notify the Executive Director and Deputy Director of the BCAA, who then shall notify other affected County Officials, anytime the Vendor receives a request for Aging Records. In addition, for Protective Services cases, an in-camera review shall be completed before a record is disclosed. Vendor shall notify the County if a motion is filed, so that the County can respond to said motion.

14. Patents, Copyrights, Trademarks

Vendor warrants, represents and covenants that the Goods and the sale and use thereof do not infringe directly or indirectly any valid patent, copyright, property right or trademark and Vendor agrees, at its cost and expense, to indemnify and hold the County free and harmless from and against any and all costs, expense, liabilities or damages, including attorneys' fees, arising out of alleged or actual patent, copyright, property right, trademark or trade secret infringement resulting from the sale or use of deliverables provided in the performance of Services.

15. Records, Audit and Inspection

15.1. Vendor shall maintain such records as may be necessary to adequately reflect the accuracy of Vendor's charges and invoices for reimbursement under this Agreement and such other additional records as the County may reasonably require in connection with this Agreement. Vendor shall preserve such records in accordance with statutory requirements, but in no case for less than three (3) years after the date of final payment, without additional reimbursement or compensation therefor. The County and its duly authorized representatives shall have the right, from time to time, and upon reasonable notice, to audit, inspect and verify the records kept by Vendor in connection with this Agreement. The County and its duly authorized representatives shall have the right to visit, observe, audit, and inspect, during the Vendor's normal business hours, Vendor's production and related facilities utilized to perform its obligations under this Agreement.

15.2. Monitoring

15.2.1. Vendor shall make available to BCAA during the term of the contract all pertinent financial, program, administrative and personnel records, reports, documents and files related directly or indirectly to Vendor's activities under and compliance with the contract.

15.2.2. BCAA programmatic monitoring shall occur on a day-to-day basis as well as through site visits to be scheduled throughout the contract term. Site monitoring visits shall be conducted at a minimum of once per year.

15.2.3. Areas to be monitored may include but are not limited to: invoice submission/accuracy, incident reports, time sheets, staffing, staff retention, training, supervision, employee

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

records, and consumer satisfaction. Unsatisfactory performance shall jeopardize contract continuation or renewal.

15.2.4. Monitoring tools outlining acceptable evidence are used in evaluating compliance with regulatory requirements, service standards, documentation and reporting requirements.

15.2.5. Discrepancies during the monitoring visit will be documented by the County and forwarded to the Vendor's Director for review and correction. A follow-up visit may occur to determine the disposition of outstanding improvement recommendations.

16. Warranty

Vendor warrants to the County that all Services shall be done in a skilled manner and shall comply with industry standards. Vendor shall promptly re-perform Services, after receiving notification from the County of defects or nonconformance.

17. Indemnity

Vendor agrees to indemnify and hold harmless the County, its elected officials, employees and agents from and against any and all liability, damages, claims, suits, liens, and judgments (including reasonable attorney's fees), of whatever nature, for injuries to or death of any person or persons, or loss of or damage to property, to the extent attributable to the negligent acts or omissions or willful misconduct of Vendor or its subcontractors or any of their respective agents, servants, or employees or Vendors' failure to perform in accordance with the provisions of this Agreement.

18. Force Majeure

Neither party shall be liable for any failure or delay in its performance resulting from any reasonably foreseeable cause beyond its reasonable control including, but not limited to, acts of God; acts or omissions of civil or military authority; fires, floods; unusually severe weather; strikes or other labor disputes; embargoes; wars; political strife; riots; delays in transportation; sabotage; or fuel, power, material or labor shortages, provided that the affected party notifies the other party, in writing, within forty-eight (48) hours subsequent to the commencement of an occurrence of force majeure.

19. Additional Services

In the event the Vendor determines that any alteration, modification or addition to the Services is necessary ("Additional Services"), the Vendor shall submit a proposal to the County setting forth in reasonable detail the scope of such Additional Services, the estimated time and price of performing the Additional Services and any potential impact on the then-existing Services and any fees related thereto. The Vendor shall obtain the prior written approval from the County before performing any Additional Services. The Vendor shall not be entitled to additional compensation for any work or materials associated with Additional Services unless it received such approval. If approved by the County, the Vendor shall perform or cause to be performed such Additional Services in accordance with the terms of this Agreement.

20. Termination for Convenience

The County reserves the right, at any time and for its convenience, to terminate this Agreement in whole or in any separable part by written notice to Vendor. Such notice shall be provided at least thirty (30) days prior to the intended termination date. Vendor shall be compensated for Services performed in accordance with the provisions of this Agreement up to the effective date of termination, less any

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

payments previously made by the County for such Services, but in no event shall Vendor be entitled to recover lost or expected profit or termination expenses.

21. Termination for Cause

- 21.1. In the event that either the Vendor or the County defaults in the performance of any obligation specified herein, the non-defaulting party shall notify the other party in writing and may suspend the Agreement, in whole or in part, pending remedy of the default. If such default is not remedied within fifteen (15) days from the date of receipt of such notice, or if the other party is diligently attempting to cure such default but is unable to cure such default within thirty (30) days from the date of receipt of such notice, then the non-defaulting party shall have the right to terminate the Agreement immediately by providing written notice of termination to the other party.
- 21.2. In the event of such notice of breach, and a failure to cure same, all finished or unfinished documents, dates of studies and reports prepared by Vendor shall at the option of the County become its property and Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents through the date of termination.
- 21.3. Notwithstanding the above, Vendor shall not be relieved of any liability to the County for damages sustained by the County by virtue of any breach of the Agreement by Vendor. The County may withhold any payments to Vendor for the purpose of set off until such time as the exact amount of damage due the County from Vendor is determined.
- 21.4. In the event that a Vendor's agreement is terminated, whether for cause or through nonrenewal, and a new Vendor is awarded the agreement, the existing Vendor must participate in a plan of transition as developed by County. This plan may include a gradual transfer of consumers to the new agency prior to the end of the existing Vendor's agreement period.
- 21.5. Existing Vendors are prohibited from communicating with consumers regarding changes in Vendor agencies. County will notify all consumers in writing regarding the change in service Vendor.
- 21.6. If this Agreement is only terminated by County in part, Vendor shall continue performance of this Agreement to the extent not terminated, provided, however, that said continuation by Vendor shall take place only after County's evaluation of any and all surrounding circumstances.
- 21.7. After the effective date of any termination by County and except as otherwise stated by County, Vendor shall:
 - 21.7.1. Stop work under this Agreement to the extent specified in such termination notice.
 - 21.7.2. Place no further orders and/or agreements for materials, services and/or facilities except as may be necessary for completion of any such portion of work under this Agreement that is not subject to termination.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 21.7.3. Terminate any and all orders and/or contracted work to the extent that relates to the performance of any work terminated.
- 21.7.4. Settle any and all outstanding liabilities and any and all claims arising out of any such termination of orders and/or agreements, to the extent County may require, and/or upon County's written approval of any such settlement.
- 21.7.5. Return to County any and all funds received not expended for any services and/or materials pursuant to this Agreement.
- 21.8. The remedies set forth above shall be cumulative and shall be in addition to any and all other rights and remedies otherwise available to the County at law or in equity.
- 21.9. If, during the term of this Agreement, Vendor shall be adjudged bankrupt, make a general assignment for the benefit of its creditors, or become insolvent, Vendor shall give the County written notice of such occurrence as soon as is legally permissible. If such occurrence or proposed occurrence is unacceptable to the County, the County may terminate this Agreement immediately upon written notice thereof to Vendor.
- 21.10. If the County terminates this Agreement for cause, in whole or in part, the County may acquire, correct, or replace Services similar to those terminated, by contract or otherwise, and the Vendor shall reimburse the County for any costs incurred by the County thereby, or an equitable reduction to the Vendor's compensation shall be made.

22. Claims for Consequential and/or Incidental Damages

The Vendor waives claims against the County for lost or expected profits, consequential damages and/or incidental damages arising out of or relating to this Agreement.

23. Release of Liens

Before any payment hereunder shall become due, the County, at its option, may require Vendor to furnish reasonable evidence of the payment of all subcontractor accounts for labor and materials pertaining to Vendor's performance hereunder. Prior to payment, the County reserves the right to require Vendor to furnish the County with a full and complete release of liens from all persons furnishing labor and materials toward the performance hereof, and in any event, Vendor agrees to indemnify and hold harmless the County, its officials, employees and agents from and against any and all liens and encumbrances arising out of Vendor's performance of this Agreement.

24. Assignment

Vendor shall not assign this Agreement in whole or in part nor delegate any duties, without the prior written consent of the County. Such consent shall not be unreasonably withheld. Any assignment consented to by the County shall be evidenced by a written assignment agreement executed by the Vendor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the original Agreement and to assume the duties, obligations, and responsibilities being assigned.

25. Publicity

Neither Vendor nor any tier subcontractor shall use the name of the County of Berks or quote the opinion of any County employee in any advertising, publicity, endorsement or testimonial, without the prior written approval of the County.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

26. Compliance with Laws

In the performance of this Agreement, Vendor shall comply with all applicable laws, ordinances, rules and regulations of governmental authorities. Vendor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations. Vendor shall give required notices, and secure and pay for any permits, licenses, and easements required for performance of services. The Vendor shall give any and all necessary formal notices required in conjunction with the lawful prosecution of the Services.

27. Health and Safety

The Vendor shall, at all times, control the health, safety and welfare of its employees and subcontractors. Vendor shall:

- 27.1. comply with all federal, state and local regulations, as well as all safety information and instructions as may be set forth in writing or otherwise provided by the County;
- 27.2. promptly report to the County all incidents with potentially adverse safety, health or environmental implications, including slips, falls, equipment malfunctions, fume releases and any situation requiring first-aid or medical observations or treatment;
- 27.3. promptly report to the County all cases Vendor determines to be recordable on the OSHA 300 log or its equivalent and upon request, provide the County with a copy of the OSHA 300 log and all supporting forms;
- 27.4. properly maintain, inspect and supervise its designated work area and roadways to keep them in reasonably safe condition;
- 27.5. supply the applicable Material Safety Data Sheet (MSDS) on all products supplied to the County or used on County property;
- 27.6. use, handle, store and dispose of any hazardous materials or waste while on the County's property in strict compliance with applicable laws and as instructed in the Material Safety Data Sheet(s); and
- 27.7. keep the County's property free of waste as the work progresses and, on completion of such activities, leave the site "broom clean" and tools, equipment and materials furnished shall be so placed and maintained as to permit unobstructed access to the work and to minimize exposure to personal injury or fire loss in a location approved by the County. The County may remove waste or store Vendor's tools, equipment and materials if Vendor fails to properly do so and the Vendor shall reimburse the County for any costs incurred, including charges for employee time, within seven (7) days of demand.

28. Equal Employment Opportunity

- 28.1. In accordance with (2 CFR § 200.326), Appendix II, the Vendor shall comply to the applicable provision in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

- 28.2. During the performance of the Agreement, the Vendor shall not discriminate against any employees or applicant for employment because of race, color, religion, sex, or national origin. The Vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this paragraph.
- 28.3. Vendor shall, in advertisements or requests for employment placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, handicap, ancestry, national origin, age, or sex.
- 28.4. Vendor shall send each labor union or workers’ representative with which it has a collective bargaining agreement or other Contracts or understanding, a notice advising said labor union or workers’ representative of its commitment to this non-discrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Vendor.
- 28.5. It shall be no defense to a finding of noncompliance with this non-discrimination clause that Vendor had delegated some to its employment practices to any union, training program, or other source of recruitment that prevents it from meeting its obligations. However, if the evidence indicates that the Vendor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
- 28.6. Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that Vendor will be unable to meet its obligations under this non-discrimination clause, Vendor shall then employ and fill vacancies through other non-discriminatory employment procedures.
- 28.7. Vendor shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of Vendor’s noncompliance with the non-discrimination clause of this Agreement or with any such laws, this Agreement may be terminated or suspended, in whole or in part, and Vendor may be declared temporarily ineligible for further Agreements, and other sanctions may be imposed and remedies invoked.
- 28.8. Vendor shall furnish all necessary employment documents and records to, and permit access to its books, records, and accounts by, the contracting agency for purposes of investigation to ascertain compliance with the provisions of this clause. If Vendor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency.
- 28.9. Vendor shall include the provisions of this non-discrimination clause in every Agreement, so that such provisions will be binding upon each subcontractor.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 28.10. Vendor obligations under this clause are limited to the Vendor's facilities within Pennsylvania or, where the Agreement is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

29. Independent Contractor

The employees, subcontractors, methods, facilities, and equipment used by Vendor shall be at all times under Vendor's direction and control. Vendor's relationship to the County under this Agreement shall be that of an independent contractor, and nothing in this Agreement shall be construed to constitute Vendor, its subcontractors or any of their employees as an employee, agent, associate, joint venturer, or partner of the County.

30. Employees of Vendor

- 30.1. Vendor agrees that each of its employees will be properly qualified and will use reasonable care in the performance of services while on County property. If the County, in the County's sole opinion, determines, for any reason, that the qualifications, actions or conduct of any particular Vendor employee is inconsistent with Vendor's obligations under this Agreement by performing unsatisfactory services, interfering with the operation of the County's facilities, bothering or annoying any occupants, visitors, or other vendors then at facility, or that such actions or conduct is otherwise detrimental to the County, then upon the County's written notice, Vendor shall immediately provide a qualified replacement.
- 30.2. Vendor shall advise its employees and the employees of its subcontractors and agents that:
- 30.2.1. It is the policy of the County of Berks to provide a drug-free work environment. To that end the County prohibits the consumption of alcohol or illegal use, possession, sale, manufacture, dispensing, and distribution of drugs or other controlled substances while performing Services or on County property on the work site, and prohibits in the workplace the presence of an individual with such substances in the body for non-medical reasons.
- 30.2.2. Any employee of Vendor who is found in violation of the policy may be removed or barred from the work site at the discretion of the County.

31. Governing Law and Jurisdiction

This Agreement shall be interpreted under the substantive law of the Commonwealth of Pennsylvania, without giving effect to its principles of conflicts of law. EACH PARTY IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURT OF COMMON PLEAS OF BERKS COUNTY, COMMONWEALTH OF PENNSYLVANIA, AND IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS BETWEEN THE PARTIES, INCLUDING, BUT NOT LIMITED TO, THOSE ACTIONS OR PROCEEDINGS RELATING TO THIS AGREEMENT, SHALL BE LITIGATED IN SUCH COURT.

32. Subcontractors

- 32.1. If subcontractors are permitted by the RFP, the Vendor shall only use such subcontractors identified in its Proposal. The substitution of one subcontractor for another may be made

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

only with the prior written approval of the County. Such approval shall not be unreasonably withheld.

- 32.2. Notwithstanding the foregoing, the Vendor shall not subcontract with or employ any entity or individual who is currently suspended or debarred by the Commonwealth of Pennsylvania or federal government during the term of this Agreement or any extensions or renewals thereof. The County shall have the right to require the Vendor to terminate such subcontracts or employment at no cost to the County. The Vendor agrees to reimburse the County for costs and expenses incurred due to the Vendor's noncompliance with the terms of this certification requirement. For further details regarding debarment refer to Clause 46.

33. Severability

The provisions of this Agreement shall be deemed to be severable. Consequently, in the event that any provision of this Agreement is found to be void or unenforceable, such findings shall not be construed to render any other provision of this Agreement either void or unenforceable, and all other provisions shall remain in full force and effect unless the provisions which are void or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either party.

34. Reservation of Rights

Either party's waiver of any of its remedies afforded hereunder or by law is without prejudice and shall not operate to waive any other remedies which such party shall have available to it, nor shall such waiver operate to waive such party's rights to any remedies for future breach, whether of a like or different character. Furthermore, any termination or assignment of this Agreement shall not relieve or release either party hereto from any rights, liabilities, or obligations which it has accrued under law or under the terms of this Agreement prior to the date of such termination or assignment.

35. Funds from Private Sources

Vendor agrees that funds under this Agreement shall not be used to replace funds from non-Federal and non-State sources. Vendor further agrees to continue or initiate efforts to obtain support from private sources or other public organizations for services funded under this Agreement.

36. Special Efforts in Employment

Subject to the requirements of merit employment systems, and in accordance with state and federal laws and regulations, the Vendor shall make every possible effort to recruit and hire persons aged 60 and over for staff positions (full-time and part-time) paid under this contract. For positions paid under this contract the Vendor shall not have a policy of mandatory retirement or deny employment to any person on account of age or have a policy of mandatory retirement applicable to positions paid under subcontract with the Vendor.

37. Regulations

This Agreement is subject to the provisions set forth in the following regulations: 28 Code of Federal Regulations Part 38, 45 Code of Federal Regulations Part 75 and 2 CFR 200 "Uniform Administrative Requirements, Cost principles and Audit Requirements for Federal Awards"; 45 Code of Federal Regulations Part 81 – Practice and Procedure for Hearings under Part 80 of this Title; and 45 Code of Federal Regulations Part 90 – Nondiscrimination on the Basis of Age.

- 37.1. In carrying out this Agreement, the Vendor and any subcontractors shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations. (Clean

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

Streams Law, Act of June 22, 1937, P.L. 1987, as amended, the Pennsylvania Solid Waste Management Act, Act of July 7, 1980, P.L. 380, as amended and the Water Obstructions Act, Act of June 25, 1913, P.L. 555, as amended.)

- 37.2. Services shall be provided in compliance with 25 Pa. Code_151 et seq., relating to Environmental Health and Safety regulations for food protection, and 34 Pa. Code_50.1 et seq., relating to Fire and Panic regulations.
- 37.3. The Vendor agrees to comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act, the Flood Disaster Protection Act and the Commonwealth Motor Vehicle Procurement Act. When applicable, the Vendor agrees to comply with the provisions of the National Historic Preservation Act, Executive Order 11593 and the Archaeological and Historic Preservation Act.
- 37.4. The Vendor agrees to fully comply with the Integrity Provisions set forth below and any changes or modification made thereto.
- 37.5. The Vendor agrees to comply with the provisions of the Older Americans Act, as amended Section 312 and 321(b), Protecting Federal Reversionary Interest in Multipurpose Senior Centers.
- 37.6. The Vendor agrees to comply with the provisions of the Drug-Free Workplace Act of 1998 in 41 U.S.C. Chapter 10, s. 701, et seq.
- 37.7. The Vendor agrees to comply with and is subject to all applicable provisions of 41 U.S.C. 4172, including prohibitions on reprisal and notice to employees.
- 37.8. All claims against the County respecting any matter pertaining to this Agreement or any part thereof shall be referred to the Board of Claims (under the Act of May 20, 1937, P.L. 728, as amended).
- 37.9. The Vendor agrees to comply with 28 CFR Part 38, “Partnerships with Faith Based and Other Neighborhood Organizations.”
- 37.10. Pursuant to Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving,” 74 Fed. Reg 51225. The County encourages Vendor to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this contract and to establish workplace safety policies and conduct education, awareness and other outreach to decrease crashes cause by distracted drivers.
- 37.11. In the performance of this Agreement, Vendor shall comply with all applicable laws, ordinances, rules and regulations of governmental authorities. Vendor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations. Vendor shall give required notices, and secure and pay for any permits, licenses, and easements required for performance of services. The Vendor shall give any and all necessary formal notices required in conjunction with the lawful prosecution of the Services.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

37.12. In accordance with 2 CRF Part 200, Section 200.318, Vendor attests to the following:

- 37.12.1. That no employee, officer, or agent of the Vendor that participates in the selection, award, or administration of this contract has a real or apparent conflict of interest. Such a conflict of interest would arise when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
- 37.12.2. The officers, employees, and agents of the Vendor may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontractors.
- 37.12.3. The Vendor's standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity/County.

37.13. In accordance with (2 CFR § 200.326), Appendix II, the Vendor shall comply to the applicable provisions as follows:

37.13.1. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148)

- 37.13.1.1. Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The Vendor must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The Vendor must report all suspected or reported violations to the County.

37.13.2. Copeland "Anti-Kickback" Act (40 U.S.C. 3145)

- 37.13.2.1. Copeland "Anti-Kickback Act (40 U.S.C. 3145, as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The Vendor must report all suspected or reported violations to the County.

37.13.3. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 37.13.3.1. 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5) applicable for awarded contracts in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- 37.13.4. Rights to Inventions Made Under a Contract or Agreement which shall be applicable for federal funding streams that meet the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

- 37.13.5. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.
 - 37.13.5.1. Applicable for contracts and subgrants of amounts in excess of \$150,000. Vendor must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

- 37.13.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)
 - 37.13.6.1. Vendors with an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

- 37.13.7. Procurement of Recovered Materials - §200.322
 - 37.13.7.1. Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

38. Grievance Procedure

Vendor will establish a system through which applicants for and recipients of service may present grievances about the operation of the program. Vendor will advise applicants and recipients of their rights to appeal, denial, or exclusion from the program or failure to recognize the recipient's choice of service and of their right to a fair hearing. The Berks County Area Agency on Aging appeal process must be followed by the Vendor.

39. Notice Required

All notices, informational pamphlets, press releases, research reports, and similar public notices prepared and released by the Vendor shall be pre-approved by the Area Agency and include the statement, "This program is funded, in part, under an Agreement with money allocated by the Pennsylvania Department of Aging and the Berks County Commissioners, through the Berks County Area Agency On Aging."

40. Budget Flexibility

- 40.1. Vendor may reallocate funds within cost centers and/or major objects up to 10% of the amount budgeted for the cost center/major object to which the funds are to be transferred, after informing the Area Agency. Reallocation of funds within cost centers major objects exceeding 10% require prior written approval by the Area Agency. Vendor shall submit copies of any changes in writing to the Area Agency. No amendments or revisions may be made after the end of the third quarter of the annual Agreement period.
- 40.2. Should the "County" or "Department" or "Agency" determine that there are accruals (under spending) in the contract, the "entity" shall have the right to reduce the contract by the accrual amount, with 30 days written notice to the Vendor. Vendor has the right to request a meeting within the 30-day period to review the accrual calculation and present information to amend the accrual amount. This right to reduce shall only be utilized by the "entity" when accruals are present and not as a means to modify the scope or term of the contract.

41. Earnings of Funds

- 41.1. Receipt of funds from County, by advance or reimbursement, does not constitute earnings of funds; funds are earned only when an allowable cost is incurred. Any unearned funds paid to Vendor shall be repaid by check to County no later than thirty (30) days after notification by County that said funds are due and owing.
- 41.2. Should the "County" or "Department" or "Agency" determine that there are accruals (under spending) in the contract, the "entity" shall have the right to reduce the contract by the accrual amount, with 30 days written notice to the Vendor. Vendor has the right to request a meeting within the 30-day period to review the accrual calculation and present information to amend the accrual amount. This right to reduce shall only be utilized by the "entity" when accruals are present and not as a means to modify the scope or term of the contract.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

42. Program-Budget Changes

Vendor shall inform the Area Agency in writing of all proposed changes in program operations, administration, or policy prior to implementation and will implement changes only after Area Agency's approval. The Area Agency reserves the right to approve contracted consumer service priorities, forms, and service delivery.

43. Eligibility Determination

- 43.1. Eligibility for service recipients will be determined by the Berks County Area Agency on Aging and approved by the Pennsylvania Department of Aging in accordance with the regulations and philosophy of the Older Americans Act and Pa. Act 70.
- 43.2. For Adult Services Block Grant service recipients only, eligibility determination for those persons eligible for Title XX of the Social Security Act will be by the Vendor through the Area Agency and the County Board of Assistance in accordance with the Department of Public Welfare's comprehensive Annual Services Program Plan and Department regulations, and any Department of Aging processes and regulations.

44. Claims Against the County

The provisions of this Agreement shall be construed in accordance with the provision of the Laws of the Commonwealth of Pennsylvania. All questions or disputes arising between the parties hereto respecting any matter pertaining to this Agreement or any part thereof or any breach of contract arising thereunder must be referred by the Vendor to the Board of Claims pursuant to 61 Pa. C.S. § 1721 et seq. This shall be the exclusive remedy for the Vendor to resolve such questions and disputes if the Vendor and the County are unable to resolve them between themselves. Settlement of disputes under this provision must be prior to the final payment to the Vendor.

45. Integrity Provisions

- 45.1. It is essential that those who seek to contract with the County observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the County procurement process.
- 45.2. In furtherance of this policy, Vendor agrees to the following:
 - 45.2.1. Vendor shall maintain the highest standards of honesty and integrity during the performance of this Agreement and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations or other requirements applicable to Vendor or that governs contracting with the County and Commonwealth.
 - 45.2.2. Vendor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Vendor employee activity with the County and Commonwealth; County and Commonwealth employees, and which is distributed and made known to all Vendor employees.
 - 45.2.3. Vendor, its affiliates, agents and employees shall not influence, or attempt to influence any County or Commonwealth employee to breach the standards of ethical conduct for

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

County or Commonwealth employees set forth in the *Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.*; the *State Adverse Interest Act, 71 P.S. §776.1 et seq.*; and the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.*, or to breach any other state or federal law or regulation.

- 45.2.4. Vendor, its affiliates, agents and employees shall not offer, give or agree or promise to give any gratuity to a County and/or Commonwealth official or employee or to any other person at the direction or request of any County and/or Commonwealth official or employee.
- 45.2.5. Vendor, its affiliates, agents and employees shall not offer, give or agree or promise to give any gratuity to a County official or employee or to any other person, the acceptance of which would violate the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.* or any statute, regulation, statement of policy, management directive or any other published standard of the County and Commonwealth.
- 45.2.6. Vendor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any County or Commonwealth official or employee.
- 45.2.7. Vendor, its affiliates, agents, employees or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the agreement, except as provided in the Agreement.
- 45.2.8. Vendor shall not have a financial interest in any other provider, subcontractor or supplier providing services, labor or material on this program, unless the financial interest is disclosed to the County in writing and the County consents to Vendor's financial interest prior to County execution of the agreement. Vendor shall disclose the financial interest to the County at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Vendor's submission of the agreement signed by Vendor.
- 45.2.9. Vendor must promptly refer to the Department of Justice Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor subcontractor or other person has, in connection with funds under this award (1) submitted a claim that violates the False Claims Act or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct. Potential fraud, waste, abuse or misconduct involving or relating to funds under this contract should be reported to the OIG by (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division 950 Pennsylvania Avenue, N.W. Room 4706, Washington, DC 20530; (2) email to oig.hotline@usdoj.gov and/or (3) the DOJ OIG hotline: at (800) 869-4499 (phone) or (202) 616-9881. Additional information is available from the DOJ OIG website at <http://www.usdoj.gov/oig>.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

Link above is provided for your reference and is subject to change. It shall be the responsibility of the Vendor to determine and utilize the appropriate site for said database.

45.2.10. Restrictions and certifications regarding non-disclosure agreements and related matters.

45.2.10.1. Vendor shall not require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts or purports to prohibit or restrict the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of federal department or agency authorized to receive such information.

45.2.10.2. The foregoing is not intended, and shall not be understood by, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmental information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

45.2.10.3. In accepting this Agreement, the Vendor

45.2.10.3.1. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

45.2.10.3.2. certifies that if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency whom has awarded these grant funds and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

45.2.10.4. If the Vendor does or is authorized to make subawards (“subgrants”), procurement contracts, or both

45.2.10.4.1. it represents that

45.2.10.4.1.1. it has determined that no other entity that the Vendor’s application proposes may or will receive award funds (whether through a subaward (“subgrant”), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 45.2.10.4.2. it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and
 - 45.2.10.4.3. it certifies that if it learns or is notified that any subrecipient contractor or subcontractor entity that receives funds under this agreement is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, the County, will immediately stop any further obligations of agreement funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.
- 45.2.11. Vendor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data or records provided to, or prepared by, Vendor under this agreement without the prior written approval of the County, except as required by the *Pennsylvania Right-to-Know Law*, 65 P.S. §§67.101-3104, or other applicable law or as otherwise provided in this Agreement. Any information, documents, reports, data, or records secured by Vendor from the County or a third party in connection with the performance of this agreement shall be kept confidential unless disclosure of such information is:
- 45.2.11.1. Approved in writing by the County prior to its disclosure; or
 - 45.2.11.2. Directed by a court or other tribunal of competent jurisdiction unless the agreement requires prior County approval; or
 - 45.2.11.3. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
 - 45.2.11.4. Necessary for purposes of Vendor’s internal assessment and review; or
 - 45.2.11.5. Deemed necessary by Vendor in any action to enforce the provisions of this Agreement or to defend or prosecute claims by or against parties other than the County; or
 - 45.2.11.6. Permitted by the valid authorization of a third party to whom the information, documents, reports, data or records pertain; or
 - 45.2.11.7. Otherwise required by law.
- 45.2.12. Vendor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the County agency granting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with,

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

convicted of, or officially notified of a governmental determination of any of the following:

- 45.2.12.1. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- 45.2.12.2. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Vendor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual of entity associated with:
 - 45.2.12.2.1. Obtaining;
 - 45.2.12.2.2. Attempting to obtain; or
 - 45.2.12.2.3. Performing a public grant or subgrant

Vendor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.
- 45.2.12.3. Violation of federal or state antitrust statutes.
- 45.2.12.4. Violation of any federal or state law regulating campaign contributions.
- 45.2.12.5. Violation of any federal or state environmental law.
- 45.2.12.6. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
- 45.2.12.7. Violation of the *Act of June 2, 1915 (P.L.736, No. 338)*, known as the *Workers' Compensation Act*, 77 P.S. 1 et seq.
- 45.2.12.8. Violation of any federal and state law prohibiting discrimination in employment, including but not limited to 28 FR Part 42.
- 45.2.12.9. Debarment by any agency or department of the federal government or by any other state.
- 45.2.12.10. Any other crime involving moral turpitude or business honesty or integrity.

Vendor acknowledges that the County may, in its sole discretion, terminate the agreement for cause upon such notification or when the County otherwise learns that Vendor has been officially notified, charged or convicted.

- 45.2.13. If this Agreement was awarded to Vendor on a non-bid basis, Vendor must, (as required by *Section 1641* of the *Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

next calendar year. The report must include an itemized list of all political contributions known to Vendor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:

- 45.2.13.1. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed as aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.
- 45.2.13.2. To obtain a copy of the report form, Vendor shall contact the Bureau of Commissioners, Elections and Legislation, Division of Campaign Finance and Lobby Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.
- 45.2.14. Vendor shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Vendor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Vendor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Vendor's behalf, no matter the procurement stage, are not exempt and must be reported.
- 45.2.15. When Vendor has reason to believe that any breach of ethical standards as set forth in law, the Governor's code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Vendor shall immediately notify the Commonwealth granting officer or Commonwealth Inspector General in writing.
- 45.2.16. Vendor, by submission of its bid or proposal and/or execution of this agreement by the submission of any bills, invoices or requests for payment pursuant to the grant, certifies and represents that it has not violated any of these integrity provisions in connection with the submission of the bid or proposal, during any agreement negotiations or during the term of the Agreement.
- 45.2.17. Vendor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Vendor non-compliance with these provisions. Vendor agrees to make identified Vendor employees available for interviews at reasonable times and places. Vendor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Vendor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Vendor's business or financial records, documents or files of any type or form that refers to or concern this Agreement.
- 45.2.18. For violation of any of these Integrity Provisions, the County may terminate that and any other agreement with Vendor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another Vendor to complete

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

performance under this Agreement, and debar and suspend Vendor from doing business with the County. These rights and remedies are cumulative, and the use or non-use of anyone shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation or otherwise.

45.2.19. For purposes of these Integrity Provisions, the following terms shall have the meanings found in this Clause 45.

45.2.19.1. “Confidential information” means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Vendor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through an act or omission of Vendor; or e) has not been independently developed by Vendor without the use of confidential information of the County or Commonwealth.

45.2.19.2. “Consent” means written permission signed by a duly authorized officer or employee of the County or Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or grantual terms, the County or Commonwealth shall be deemed to have consented by virtue of execution of this Agreement.

45.2.19.3. “Vendor” means the individual or entity that has entered into this Agreement with the County, including those directors, officers, partners, managers and owners having more than a five percent interest in Vendor.

45.2.19.4. “Financial interest” means:

45.2.19.4.1. Ownership of more than a five percent interest in any business; or

45.2.19.4.2. Holding a position as an officer, director, trustee, partner, employee or holding any position of management.

45.2.19.5. “Gratuity” means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment or grants of any kind. The exceptions set forth in the Governor’s Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b), shall apply.

45.2.19.6. “Immediate family” means a spouse and any unemancipated child.

45.2.19.7. “Non-bid basis” means a grant awarded or executed by the County with Vendor without seeking bids or proposals from any other potential bidder or offeror.

45.2.19.8. “Political contribution” means any payment, gift, subscription, assessment, grant, payment for services, dues, loan, forbearance, advance or deposit of money or

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

46. Debarment/Tax Liabilities

- 46.1. For the purpose of these provisions, the term vendor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, provider, or subcontractor, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant or subgrant with the County, or with a person under contract, subcontract, grant, or subgrant with the County or its state-affiliated entities, and state-related institutions. The term vendor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the County.
- 46.1.1. The Vendor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any County contract, that neither the Vendor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Vendor cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.
- 46.1.1.1. The Vendor must also certify, in writing, that as of the date of its execution, of any County contract it has no tax liabilities or other County or Commonwealth obligations.
- 46.1.1.2. The Vendor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Vendor shall have an obligation to inform the contracting agency if, at any time during the term of the contract, it becomes delinquent in the payment of taxes, or other County or Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- 46.1.2. The failure of the Vendor to notify the contracting agency of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the contract with the County.
- 46.1.3. The Vendor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Vendor's compliance with the terms of this or any other agreement between the Vendor and the County, which results in the suspension or debarment of the Vendor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Vendor shall not be responsible for investigative costs for investigations that do not result in the Vendor's suspension or debarment.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 46.1.4. Vendor is required to screen their employees and contractors, both individuals and entities, to determine if they have been excluded from participation in Medicare, Medicaid or any other federal health care program. Vendor will immediately notify County of any discovered exclusion of an employee or contractor, either an individual or entity.
- 46.1.5. All employees, vendors, contractors, service providers, and referral sources should be screened for exclusion before employing and/or contracting with them and, if hired, should be rescreened on an ongoing monthly basis to capture exclusions and reinstatements that have occurred since the last search.
- 46.1.6. Vendor will develop and maintain auditable documentation of screening efforts, including dates the screenings were performed and the source data checked and its date of more recent update; and periodically conduct self-audits to determine compliance with this requirement.
- 46.1.7. Any Vendor being paid with Medical Assistance or SCHIP dollars shall adhere to the following:
- 46.1.8. Develop policies and procedures for screening of all employees and contractors (both individuals and entities), at time of hire or contracting; and, thereafter, on an ongoing monthly basis to determine if they have been excluded from participation in federal health care programs;
- 46.1.9. Vendor will use the following databases to determine exclusion status:
- 46.1.9.1. *Pennsylvania Medichex List*: a data base maintained by the Pennsylvania Department of Human Services (“DHS”) that identifies providers, individuals, and other entities that are precluded from participation in Pennsylvania’s MA Program:
- <http://www.dhs.pa.gov/publications/medichexsearchh/index.htm>
- Link above is provided for your reference and is subject to change. It shall be the responsibility of the Vendor to determine and utilize the appropriate site for said database.
- If an individual’s resume indicates that he/she has worked in another state, providers should also check that state’s individual list.
- 46.1.9.2. *List of Excluded Individuals/Entities (LEIE)*: data base maintained by HHS-OIG that identifies individuals or entities that have been excluded nationwide from participation in any federal health care program. An individual or entity included on the LEIE is ineligible to participate, either directly or indirectly, in the MA Program. Although the DHS makes best efforts to include on the Medichex List all federally excluded individuals/entities that practice in Pennsylvania, providers

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

must also use the LEIE to ensure that the individual/entity is eligible to participate in the MA Program:

<http://oig.hhs.gov/exclusions/index.asp> .

Link above is provided for your reference and is subject to change. It shall be the responsibility of the Vendor to determine and utilize the appropriate site for said database.

- 46.1.9.3. Excluded Parties List System (EPLS): worldwide database maintained by the General Services Administration (GSA) that provides information about parties that are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits:

<https://www.sam.gov/>.

Link above is provided for your reference and is subject to change. It shall be the responsibility of the Vendor to determine and utilize the appropriate site for said database.

- 46.1.9.4. Vendor shall immediately self-report any discovered exclusion of an employee or contractor, either an individual or an entity, to the Bureau of Program Integrity either:

- 46.1.9.4.1. Via e-mail through the MA Provider Compliance form at the following link:

<http://www.dpw.state.pa.us/learnaboutdpw/fraudandabuse/maprovidercompliancehotlinerresponseform/index.htm>.

- 46.1.9.4.2. By U.S. mail at the following address:

Department of Human Services
Office of Administration
Bureau of Program Integrity
Commonwealth of Pennsylvania
P.O. Box 2675
Harrisburg, PA 17105-2675

- 46.1.9.4.3. By fax at: 1-717-772-4655 or 1-717-772-4638.

- 46.1.9.4.4. Vendor shall copy the County on any notice given to the Bureau of Program Integrity in the manner and at the address provided for giving notices to the County in this Agreement.

- 46.1.9.5. Vendor shall develop and maintain auditable documentation of screening efforts, including dates the screenings were performed and the source data checked and its date of most recent update.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 46.1.9.6. Vendor shall periodically conduct self-audits to determine compliance with this requirement.
- 46.1.9.7. Vendor shall provide evidence of compliance with these requirements to the County within ten (10) days following a request by the County.
- 46.1.9.8. The Vendor may obtain a current list of suspended and debarred Commonwealth providers by accessing:

http://www.dgsinternet.state.pa.us/debarment_list or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: 717-783-6472
Fax No: 717-787-9138
- 46.1.9.9. It shall be the responsibility of the Vendor to determine and utilize the appropriate site for said database.

47. Examination of Records

- 47.1. Vendor shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred for the performance of this Agreement. The foregoing constitutes "records" for the purpose of this section. Vendor agrees that a program and facilities review, including meetings with consumers, review of service records, review of service policy and procedural issuances, review of staffing rations and job descriptions, and meetings with any staff directly or indirectly involved in the provision of services may be conducted at any reasonable time by State and Federal personnel and other persons duly authorized by the Area Agency. If Vendor is not a public body, Vendor agrees to maintain books, records, documents, and other evidence and accounting procedures and practices which comply with the nationally accepted Uniform Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations, as published by the National Health Council and the National Social Welfare Assembly, 1964.
- 47.2. Vendor facilities or such part thereof as may be utilized in the performance of this Agreement and Vendor's records shall be subject at all reasonable times to inspection and audit by the Commonwealth and Federal auditors and other persons duly authorized by the Area Agency.
- 47.3. Vendor agrees that until the expiration of five years after final payment under this Agreement, Federal and Commonwealth auditors and other persons duly authorized by the Area Agency shall have access to and the right to examine any records of the Vendor involving transactions related to this Agreement. Vendor may, in fulfillment of Vendor's obligation to retain Vendor's records, substitute photographs, microphotographs, or other authentic reproductions of such records after the expiration of two years following the last date of reimbursement to the Vendor.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 47.4. Vendor agrees to collect statistical data of a fiscal nature on a regular basis and to make fiscal statistical reports at time prescribed by, and on forms furnished by the Area Agency.
- 47.5. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of four years from the date of any resulting final settlement. In addition, records which relate to litigations or the settlement of claims arising out of the performance of this Agreement, or costs and expenses of this Agreement as to which exception has been taken by the Auditors, shall be retained by the Vendor until such litigations, claims, or exceptions have been disposed of.
- 47.6. During the period of this Agreement, all information obtained by the Vendor shall be made available to the Area Agency immediately upon demand.

48. Progress Reports

- 48.1. The Vendor and its subcontractors shall furnish to the County such progress and periodic reports in such form and quantity as the County may from time to time require, including but not limited to, status reports of the program, proposed budgets, invoices, copies of all contracts executed and proposed and any and all other information relative to the program as may be requested.
- 48.2. In the event that the County determines that the Vendor or its subcontractors have not furnished such reports as required by the County, the County, by giving written notice to the Vendor, may suspend payments under this Agreement, until such time as the required reports are submitted.

49. Rights In Data: Copyrights and Disclosure

- 49.1. Definition: The term "data" as used herein, includes written reports, drawings, studies, computer programs, and work of any similar nature that is required to be delivered under this Agreement. It does not include Vendor's financial reports or other information incidental to Agreement's administration.
- 49.2. Rights in Data: Data submitted to and accepted by the Department of Aging under this Agreement shall be the property of the Department of Aging and it shall have full right to use such data for any official purpose in whatever manner deemed desirable and appropriate. Such use shall be without any additional payment to or approval by the Vendor.
- 49.3. Copyrights: Vendor relinquishes any and all copyrights and/or privileges to data developed under this Agreement. Vendor shall not include in the data any copyrighted matter without the written approval of the Department of Aging unless Vendor provides the Department of Aging with written permission of the copyright owner for the Department of Aging to use such copyrighted matter in a manner provided herein. Vendor shall exert all reasonable effort to advise the Department of Aging, at the time of delivery of data furnished under this Agreement, of all invasions of the right to privacy contained therein. The Vendor shall defend any suit or proceeding brought against the Commonwealth and/or County on account of any alleged infringement of any copyright arising out of the performance of this

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

Agreement, including all work, services, materials, reports, studies, and computer programs provided by the Vendor. This is upon the condition that the Commonwealth and/or County shall provide prompt notification in writing of such suit or proceedings, full right, authorization and opportunity to conduct the defense thereof, and full information and all reasonable cooperation for the defense of the same. As principles of governmental or public law are involved, the Commonwealth and/or County may participate in the defense of any such action. The Vendor shall pay all damages and costs awarded therein against the Commonwealth and/or County. If information and assistance are furnished by the Commonwealth and/or County at Vendor's written request, it shall be at the Vendor's expense, but the responsibility for such expense shall be only that within the Vendor's written authorization. If any of the materials, reports, studies, or computer programs provided by the Vendor are in such suit or proceeding held to constitute infringement and the use of publication thereof is enjoined, the Vendor shall, at his own expense and at his option, either procure the right to publish or continue use of such infringing materials, reports, studies, or computer programs, replace them with non-infringing items, or so modify them so that they are no longer infringing. The obligations of the Vendor under this paragraph continue without time limit.

50. Americans with Disabilities Act

Pursuant to federal regulations promulgated under the authority of the Americans with Disabilities Act, 28 C.F.R. §35.101 *et seq.*, the Vendor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Agreement or from the activities provided for under this Agreement. As a condition of accepting and executing this Agreement, the Vendor agrees to comply with the “General Prohibitions Against Discrimination,” 28 C.F.R. §35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act which are applicable to the benefits, services, programs and activities provided by the Commonwealth of Pennsylvania through contracts with outside providers.

51. Nondiscrimination/Sexual Harassment Clause

51.1. During the term of the Agreement, Vendor agrees as follows:

- 51.1.1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the Agreement or any contract or subcontract, the Vendor, a contractor, a subcontractor, or any person acting on behalf of the Vendor shall not, by reason of gender, race, creed or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- 51.1.2. The Vendor, contractor or any subcontractor or any person on their behalf shall not in any manner discriminate against or intimidate any of its employees on account of gender, race, creed or color.
- 51.1.3. The Vendor, contractor or any subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 51.1.4. The Vendor, contractor or any subcontractor shall not discriminate by reason of gender, race, creed or color against any contractor, subcontractor or supplier who is qualified to perform the work to which the agreement relates.
- 51.1.5. The Vendor, any contractor or any subcontractor shall, within the time periods requested by the County, furnish all necessary employment documents and records and permit access to their books, records and accounts by the County and the Bureau of Minority and Women Business Opportunities (BMWBO), for the purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- 51.1.6. The Vendor, any contractor or subcontractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every contract or subcontract so that those provisions applicable to contractors or subcontractors will be binding upon each contractor or subcontractor.
- 51.1.7. The County may cancel or terminate the agreement and all money due or to become due under the agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, County may proceed with debarment or suspension and may place the Vendor, contractor or subcontractor in the Contractor Responsibility File.

52. Set Off Clause

The Vendor agrees that the County may set off the amount of any county or state tax liability or other obligation of the Vendor or its subsidiaries to the County against any payments due the Vendor under any contract with the County.

53. Property and Supplies

- 53.1. Vendor agrees to use its best efforts to obtain all supplies and equipment for use in the performance of this Agreement at the lowest practicable cost and to purchase all supplies and equipment over \$3,000.00 by means of a system of competitive quoting and/or bidding as required under the provisions of the Pennsylvania 3rd Class County Code, Article XVIII and/or Federal Acquisitions Regulations, as applicable.
 - 53.1.1. Proper bidding procedures shall adhere to Federal Regulations governing procurement outlined in 2 CFR Part 200 “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards”, as amended. When obtaining written quotations procedures must be in place to ensure that a linkage is maintained with the Small Business Administration and other agencies which are able to assist in identifying small and minority-owned businesses.
- 53.2. In addition, the Vendor shall maintain and administer with sound business practice a program for maintenance, repair, preservation and insurance of property.
- 53.3. Any vehicle purchased by the Vendor with Aging funds shall be adequately insured to cover occasional operation by Berks County Area Agency on Aging staff; said insurance to be in an

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

amount approved by Berks County Area Agency on Aging and proof of said insurance shall be provided to Berks County Area Agency On Aging yearly.

- 53.4. Title to all property furnished by the Department of Aging through the Area Agency Agreements shall remain with the said Department. Title to all property acquired by the Vendor, including purchase by lease-purchase agreement, for the cost of which the Vendor is to be reimbursed under this Agreement, shall vest in the Vendor during the term of this Agreement unless otherwise noted in the Agreement. Upon cancellation or termination of this Agreement, disposition of such purchased property that has remaining useful life shall be made in accordance with the following provisions:
- 53.4.1. If the Vendor wishes to retain any items of such purchased property, both parties will arrange for an independent third party appraisal (agreed upon by the Area Agency) of these property items and will reimburse said Department for the value of the remaining life of the property on the basis of such appraisals;
- 53.4.2. The Vendor may sell the property and reimburse said Department for its appropriate share providing said Department is notified ten days in advance of the date of sale, and prior written approval is received from the Secretary of Aging, the Governor's Office of Administration and the Area Agency.
- 53.5. The Commonwealth property and any property purchased under this Agreement shall, unless otherwise provided herein or approved in writing by said Department, be used only for the performance of this Agreement. In the event the Vendor is compensated for any loss, destruction or damage to the property, the Vendor shall renovate, repair, or replace the property. Any proceeds shall be credited to the Agreement.

54. Right to Know Law

- 54.1. The Pennsylvania Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101-3104, applies to this Agreement.
- 54.2. Unless the Vendor provides the County, in writing, with the name and contact information of another person, the County shall notify the provider using the Vendor information provided by the Vendor in this Agreement if the County needs the Vendor’s assistance in any matter arising out of the RTKL. The Vendor shall notify the County in writing of any change in the name or the contact information within a reasonable time prior to the change.
- 54.3. Upon notification to the Vendor that the County has received a request for records under the RTKL related to this Agreement that may be in the Vendor’s possession, constituting or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Vendor shall:
- 54.3.1. Provide the County, within five (5) business days after receipt of the County’s written notification, access to, and copies of, any document or information in the Vendor’s possession arising out of this Agreement that the County reasonably believes is Requested Information and may be a public record under the RTKL; and

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 54.3.2. Provide such other assistance as the County may reasonably request, in order to comply with the RTKL with respect to this Agreement.
- 54.4. If the Vendor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or information that the Vendor considers exempt from production under the RTKL, the Vendor must notify the County and provide within five (5) business days of receiving the County’s written notification, a written statement signed by a representative of the Vendor explaining why the requested material is exempt from public disclosure under the RTKL.
- 54.5. The County will rely upon the written statement from the Vendor in denying a RTKL request for the Requested Information unless the County determines that the Requested Information is clearly not protected from disclosure under the RTKL.
- 54.6. If the Vendor fails to provide the Requested Information within the time period required by these provisions, the Vendor shall indemnify and hold the County harmless for any damages, penalties, costs, detriment or harm that the County may incur as a result of the Vendor’s failure, including any statutory damages assessed against the County.
- 54.7. The County will reimburse the Vendor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- 54.8. The Vendor may file a legal challenge to a decision by the County’s decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Vendor shall indemnify the County for any legal expenses incurred by the County as a result of such a challenge and shall hold the County harmless for any damages, penalties, costs, detriment or harm that the County may incur as a result of the Vendor’s failure, including any statutory damages assessed against the County, regardless of the outcome of such legal challenge. As between the parties, the Vendor agrees to waive all rights or remedies that may be available to it as a result of the County’s disclosure of Requested Information pursuant to the RTKL.
- 54.9. The Vendor’s duties relating to the RTKL are continuing duties that survive the expiration of the Agreement and shall continue as long as the Vendor has Requested Information in its possession.

55. Federal and State Audit Requirements

- 55.1. Vendor must comply with all federal and state audit requirements including: the Single Audit Act, as amended, 31 U.S.C. 7501 *et seq*; 2 CFR Part 200 “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards”, as amended; and any other applicable law or regulation and any amendment to such other applicable law or regulation which may be enacted or promulgated by the state or federal government.
- 55.2. If the Vendor is a local government or non-profit organization and expends total federal awards of \$750,000 or more during its fiscal year, received either directly from the federal government or indirectly from a recipient of federal funds, Vendor is required to have an

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

audit made in accordance with the provisions of 2 CFR Part 200 “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards”.

- 55.3. If the Vendor is a for-profit organization and expends total federal awards of \$750,000 or more during its fiscal year, received either directly from the federal government or indirectly from a recipient of federal funds, Vendor is required to have a program-specific audit made in accordance with the provisions of 2 CFR Part 200 “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards” and in accordance with the laws and regulations governing the programs in which it participates.
- 55.4. If the Vendor expends total federal awards of less than \$750,000 during its fiscal year, it is exempt from these audit requirements but is required to maintain auditable records of federal and any state funds which supplement such awards and to provide access to such records by federal and state agencies or their designees.
- 55.5. In the event an audit is required, the Vendor is responsible for obtaining the required audit and securing the services of a certified public accountant or other independent governmental auditor. The audit shall be completed, and the report submitted to the County no later than 90 days after the close of the agreement period.
- 55.6. In the event that an audit is performed that is not mandated by applicable federal laws or regulations, Vendor shall not charge its costs of the audit to federal funding streams.
- 55.7. Vendor shall maintain adequate and sufficiently detailed records of all the services provided pursuant to this Agreement to permit an evaluation of finances and performance, which records shall be open at all reasonable times for inspection by the County, federal, state and county agencies or their authorized representatives. The County and any competent federal, state or county agency or their authorized representatives shall have the right to inspect, audit and copy Vendor’s records during normal business hours. The County shall provide fourteen (14) days notice to Vendor in the event of such an audit.
- 55.8. The County shall advise Vendor of any discrepancies in adherence to this Agreement. Vendor upon receipt of such notification hereby agrees to promptly correct any discrepancies to the satisfaction of the County.
- 55.9. Vendor shall maintain and make available such books, records and documents related to this Agreement for five (5) years from the termination of this Agreement, or until all disputes have been resolved to the satisfaction of the County or by final decision or judgment, or as otherwise required by applicable federal or state laws and regulations, whichever is greater.

56. Assurance of Compliance

- 56.1. The Vendor provides this assurance in consideration of and for the purpose of obtaining Federal Grants, loans, contracts, property, discounts or other Federal financial assistance from the Department of Health and Human Services.
- 56.2. The Vendor hereby agrees that it will comply with:

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 56.2.1. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), as amended, and all requirements imposed by or pursuant to the Regulations of the Department of Health and Human Services (45 C.F.R. Part 80), to the end that, in accordance with Title VI of that Act and the Regulations, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Vendor receives Federal financial assistance from the County.
- 56.2.2. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and all requirements imposed by or pursuant to the Regulations of the Department of Health and Human Services (45 C.F.R. Part 84), to the end that, in accordance with Section 504 of that Act and the Regulations, no otherwise qualified individual with a disability in the United States shall, solely by reason of her or his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the Vendor receives Federal financial assistance from the County.
- 56.2.3. Title IX of the Educational Amendments of 1972 (Pub. L. 92-318), as amended, and all requirements imposed by or pursuant to the Regulations of the Department of Health and Human Services (45 C.F.R. Part 86), to the end that in accordance with IX and the Regulations, no person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any educational program or activity for which the Vendor received Federal financial assistance from the County.
- 56.2.4. The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, and all requirements imposed by or pursuant to the Regulations of the Department of Health and Human Services (45 C.F.R. Part 91), to the end that, in accordance with the Act and the Regulations, no person in the United States shall, on the basis of age, be denied the benefits of, be excluded from participation in or be subjected to discrimination under any program or activity for which the Vendor receives Federal financial assistance from the County.
- 56.3. The Vendor agrees that compliance with this assurance constitutes a condition of continued receipt of Federal financial assistance, and that is binding upon the Vendor, its successors, transferees and assignees for the period during which such assistance is provided. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Vendor by the County, this assurance shall obligate the Vendor, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Vendor for the period during which it retains ownership or possession of the property. The Vendor further recognizes and agrees that the United States shall have the right to seek judicial enforcement of this assurance.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

57. Vendor's Commitments

Any written commitment or representation of Vendor made within the scope of this Agreement shall be binding upon Vendor and is hereby incorporated into this Agreement.

58. Cooperation in Litigation

The Vendor shall cooperate fully with the County in any prosecution or defense of any litigations, claims, and threatened litigations. If County becomes involved in any matters involving litigation or threatened litigation against others not including Vendor, Vendor shall cooperate fully with County's efforts to dispose of such matters. Such cooperation shall include, but not be limited to, submission of information, attendance at meetings and appearance in court or before other judicial or quasijudicial bodies.

59. Membership Restrictions of Facilities

Funds awarded by this Agreement shall not be used to hold meetings, conferences, training sessions or other gatherings at any facility which excludes or restricts membership of individuals on account of race, color, religion, national origin, ancestry or gender.

60. Reporting of Allegations/Suspicious

- 60.1. Vendor shall be responsible for resolution of consumer/family allegations against Vendor employees regarding theft and misappropriation, including instituting disciplinary/legal action against the employee if warranted. Vendor shall immediately notify County of all allegations made by or on behalf of a consumer funded under this Agreement.
- 60.2. All allegations made against any Vendor employee involving consumer abuse, neglect or exploitation shall be immediately reported to County and County's Older Adult Protective Services Unit. Failure to report such allegations shall jeopardize continuation of the agreement.
- 60.3. If any Vendor employee suspects consumer abuse, neglect, exploitation or abandonment by individuals other than Vendor employees, it shall be immediately reported to County's Older Adult Protective Services Unit.

61. Headings

All headings included for convenience only and shall not affect any construction or interpretation of this Agreement.

62. Entire Agreement

The governing terms and conditions of this Agreement are expressly limited to the terms and conditions contained in this Agreement and documents incorporated herein. This Agreement constitutes the complete integration of all oral and written documents, is the entire and final Agreement between the parties and may be amended only by a written instrument signed by authorized officials of both parties.

With the intent to be legally bound, authorized officials of each party have signed this Agreement on the dates written below. Each person signing this Agreement represents and warrants that such person is fully authorized to sign and enter into this Agreement on behalf of the company named above his or her signature.

**ATTACHMENT A – PROPOSED FORM OF AGREEMENT
AND GENERAL CONDITIONS**

Both parties agree and acknowledge that electronic/facsimile signatures are binding to this Agreement.

County of Berks

Vendor

By: _____

By: _____

Name (printed): Kelly A. Laubach, CPPB

Name (printed): _____

Title: Director of Contracts and Procurement

Title: _____

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____

By: _____

Name (printed): Candace L. Noll

Name (printed): _____

Title: Contract Manager

Title: _____

ATTACHMENT B – HIPPA AGREEMENT

HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement (this “Agreement”) dated _____, 20__, is by and between the **County of Berks** located at 633 Court Street, 13th Floor, Services Center, Reading, Pennsylvania 19601 (“Covered Entity”) and **Vendor Name** located at **Vendor Address** (“Business Associate”) related to the work to be performed as described below (Covered Entity and Business Associate, each a “Party” and collectively, the “Parties”).

BACKGROUND

- I. Covered Entity has engaged Business Associate for the purpose of facilitating the Care Management and Family Caregiver Support Programs (hereinafter, the “BA Services Contract”), in providing certain functions and activities for and on behalf of Covered Entity (the “BA Services”).
- II. Covered Entity wishes to disclose information to Business Associate pursuant to the terms of this Agreement, some of which may constitute Protected Health Information (“PHI”), including electronic protected health information (“e-PHI”) (PHI and e-PHI are, collectively, referred to hereinafter as “Covered Entity’s PHI”) in order for Business Associate to perform the BA Services.
- III. Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate in connection with the BA Services Contract and pursuant to this Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“Original HIPAA”), as amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH”, and collectively with Original HIPAA, the “HIPAA Statute”), along with regulations promulgated by the Secretary of the Department of Health and Human Services (“HHS”) under the HIPAA Statute, including the “Privacy Rule” (45 CFR Parts 160 and 164, Subparts A and E) and the “Security Rule” (45 CFR Part 160 and 164, Subparts A and C), as amended by the “Omnibus Rule” (45 CFR Part 160, Subparts A, B, C and D and Part 164, Subparts A and C) (the Privacy Rule, the Security Rule and the Omnibus Rule, collectively the “HIPAA Rules”), as well as any other applicable laws concerning the privacy and security of health information. Hereinafter, the HIPAA Rules and the HIPAA Statute may be collectively referred to as “HIPAA”.
- IV. Under HIPAA, Covered Entity must document the required satisfactory assurances through a written agreement with Business Associate that meets the applicable requirements of HIPAA, as well as incorporate into such agreement those requirements under HITECH that relate to privacy or security and are applicable to Business Associate, and the Parties now wish to enter into the Agreement in order to comply with such requirement and to set forth more specifically each Party’s respective obligations in connection therewith.

In consideration of the mutual promises below and the exchange of information provided for herein, the Parties agree as follows:

TERMS

- A. Incorporation of Background. The “Background” paragraphs set forth above are incorporated herein and made a part of the terms of this Agreement as if set forth herein in full.

ATTACHMENT B – HIPPA AGREEMENT

- B. Effective Date. Except as specifically stated otherwise in this Agreement, the Effective Date shall be the date that first appears above in the introductory paragraph to this Agreement.
- C. Definitions. Any capitalized terms not otherwise specifically defined in this Agreement shall have the meanings ascribed to them in HIPAA.
- D. Obligations of Covered Entity. Covered Entity shall be responsible for using appropriate safeguards to maintain and ensure the confidentiality, privacy and security of Covered Entity's PHI transmitted to Business Associate pursuant to this Agreement, in accordance with the standards and requirements of HIPAA, until such PHI is received by Business Associate.
- E. Obligations of Business Associate.
- 1) Permitted Uses and Disclosures. Business Associate may use and/or disclose any and all of Covered Entity's PHI received by Business Associate from Covered Entity, or created or obtained by Business Associate on behalf of Covered Entity as follows:
- a) Purpose: Business Associate may use Covered Entity's PHI to provide or perform the BA Services, as set forth in the BA Services Contract, as permitted by and in accordance with this Agreement, HIPAA, and all other applicable federal or state laws. Business Associate may not use or disclose Covered Entity's PHI in a manner that would violate HIPAA if done by Covered Entity, this Agreement, or applicable law.
- b) Type of Information: Business Associate may use and/or disclose only the minimum necessary amount of Covered Entity's PHI needed for Business Associate to perform the BA Services in a manner consistent with Covered Entity's minimum necessary policies and procedures and any minimum necessary standards and guidance released by HHS pursuant to HIPAA.
- c) Scope of Use: Business Associate may use and further disclose Covered Entity's PHI to the extent permitted by and in accordance with this Agreement, HIPAA, or as otherwise required by law.
- d) Use for Management and Administration: Business Associate may use Covered Entity's PHI for the proper management and administration of Business Associate, if such disclosure is necessary (1) for the proper management and administration of Business Associate or (2) to carry out the legal responsibilities of Business Associate.
- e) Disclosure for Management and Administration: Business Associate may disclose Covered Entity's PHI for the proper management and administration of Business Associate if:
1. the disclosure is required by law, or
 2. Business Associate obtains from such third party a written agreement:
 - (i) that Covered Entity's PHI will be held confidentially and in compliance with HIPAA, and used or further disclosed only as

ATTACHMENT B – HIPPA AGREEMENT

required by law or for the purpose for which it was disclosed to such third party; and

- (ii) to notify Business Associate, without unreasonable delay, of any instances of which such third party becomes aware of a Breach that compromises the confidentiality of Covered Entity's PHI.

In no event, however, shall Business Associate disclose Covered Entity's PHI for the foregoing purposes to any such third party not within the borders and jurisdiction of the United States of America without the prior written consent of Covered Entity, which may be withheld in Covered Entity's sole and unfettered discretion.

- f) Uses or Disclosures Requiring Prior Authorization: Business Associate agrees and understands that, except as expressly provided in this Agreement, or permitted under HIPAA, and state law, it shall not use or disclose Covered Entity's PHI to any other person or entity without first having received a HIPAA-compliant authorization. Business Associate shall retain a copy of each authorization obtained, and the information provided in response to the authorization, for six (6) years.
 - g) Nondisclosure: Business Associate shall not use or further disclose Covered Entity's PHI other than as permitted or required by this Agreement, or as otherwise required or permitted by law.
 - h) Compliance with Privacy Rule and Security Rule: To the extent Business Associate is to carry out a function or obligation of Covered Entity with respect to the Privacy Rule or Security Rule, Business Associate shall comply with the requirements of such subparts that apply to the Covered Entity in the performance of such obligation.
- 2) Business Associate's Agents. Business Associate shall ensure that any agent to whom it provides Covered Entity's PHI agrees in writing to comply with all HIPAA requirements that apply to Business Associate and with the terms and the restrictions of this Agreement with respect to such PHI, and to ensure that any subcontractor of agent agrees to such additional terms and restrictions as may be necessary to allow Business Associate to meet its obligations under this Agreement including, but not limited to, the terms and conditions set forth in Paragraph E, Section 8, hereof. In connection therewith, Business Associate agrees to indemnify, defend and hold Covered Entity harmless from and against any and all penalties, claims, fines, losses, liabilities, costs and other expenses, including court costs and reasonable attorneys' fees and disbursements, incurred as a result of, or arising directly or indirectly out of or in connection with any claims, demands, awards, judgments, actions and proceedings made by any person or organization arising out of or in any way connected with the Business Associate's agent's documentation, disclosure, use, handling, control or maintenance of Covered Entity's PHI.
- 3) Prohibited Uses and Disclosures.

ATTACHMENT B – HIPPA AGREEMENT

- a) Prohibition on “Sale” of PHI and “Marketing”. Business Associate shall not directly or indirectly accept remuneration in exchange for using or disclosing any of Covered Entity’s PHI, including in de-identified form, except Business Associate may accept such remuneration from Covered Entity in exchange for services or functions performed pursuant to this Agreement. Business Associate shall not use or disclose Covered Entity’s PHI for Marketing except for or on behalf of Covered Entity with Covered Entity’s express written consent and the individual’s Authorization.
- b) All Other Uses Strictly Prohibited. Business Associate is strictly prohibited from using or disclosing Covered Entity’s PHI in any other manner except as expressly permitted under this Agreement, including, but not limited to, manipulating or otherwise converting such information to de-identified format, even if any such use or disclosure is otherwise permitted under HIPAA, unless Covered Entity agrees in advance in writing.
- 4) Security Safeguards.
- a) General. Business Associate shall have in place reasonable and appropriate safeguards to provide for the security of Covered Entity’s PHI and prevent use or disclosure of Covered Entity’s PHI other than as provided for by this Agreement in accordance with the Security Rule and other applicable laws, including administrative, technical and physical safeguard standards as set forth in § 164.308, § 164.310, § 164.312 of the Security Rule:
1. Compliance with Security Rule. Business Associate shall comply with the requirements of the Security Rule at all times with respect to Covered Entity’s PHI.
 2. Administrative and Other Safeguards. Business Associate shall implement and maintain a written security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of Business Associate’s operations and the nature and scope of its activities and as reasonably necessary for Business Associate to comply with applicable provisions of the Security Rule, including but not limited to all “Required” and “Addressable” Implementation Specifications.
 3. Documentation. Business Associate shall maintain written or electronic policies and procedures developed to comply with the Security Rule. If any action, activity or assessment is required under the Security Rule to be documented, Business Associate shall maintain a written (or electronic) record of the same, and retain a copy and make it available to Covered Entity upon request for a period of six (6) years from the date of its creation, or the date when it last was in effect, whichever is later.
 4. HHS Guidance. Business Associate shall implement and comply with all requirements set forth in any guidance concerning business associate’s compliance with the Security Rule that may be issued by HHS pursuant to HIPAA.

ATTACHMENT B – HIPPA AGREEMENT

b) Security Breach Notification.

1. General. Business Associate shall comply with the standards and requirements under the Breach Notification Laws, which for purposes of this Agreement include, collectively, the provisions relating to breach as set forth in HITECH and its related Rules for Breach Notification for Unsecured Protected Health Information (45 CFR Parts 160 and 164), as may be amended in the future, and in the Pennsylvania Breach of Personal Information Notification Act, and its related regulations, as may be amended from time to time.
2. Encryption. Business Associate shall encrypt Covered Entity's PHI when maintained by Business Associate (i.e., "at rest") and when transmitted by Business Associate (i.e., "in transit") to render it unusable, unreadable and/or indecipherable, including any and all of Covered Entity's PHI that Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, transmits or discloses for or on behalf of Covered Entity pursuant to this Agreement. If the Parties otherwise mutually agree that it is not reasonable or possible for Business Associate to encrypt Covered Entity's PHI, then Business Associate shall implement reasonable alternative security methods, as agreed to by Covered Entity in its sole and unfettered discretion, to safeguard Covered Entity's PHI.
3. Business Associate's Obligations in the Event of a Security Incident or Breach.
 - (i) Reporting Security Incidents and Breaches. Business Associate shall promptly report to Covered Entity's Privacy Officer and/or Security Officer, or their respective designee, either in person or by telephone at a number to be provided by Covered Entity, any Breach or Security Incident, as such terms are defined by HIPAA, that has or may result in the unauthorized use or disclosure of Covered Entity's PHI, and in no case later than seventy-two (72) hours from the date of actual or constructive discovery by Business Associate.
 - (ii) Discovery of Breach. In accordance with 45 C.F.R. §164.402, any acquisition, access, use or disclosure of PHI in a manner not permitted under the Privacy Rule is presumed to be a Breach. For purposes of this Agreement, a Breach shall be deemed "discovered" by Business Associate as of the first day on which such Breach is actually known to any person, other than the individual committing the Breach, that is an employee, officer, or other agent of Business Associate, or if such Breach should reasonably have been known to Business Associate to have occurred, including but not limited to notification provided to Business Associate by a subcontractor of a Breach. Business Associate shall take all commercially reasonable steps (e.g.,

ATTACHMENT B – HIPPA AGREEMENT

audits; hotlines; technological tools, etc.) to allow it to discover Breaches and Security Incidents involving Covered Entity's PHI.

- (iii) No Delay for Risk Assessment. Business Associate shall not delay Breach or Security Incident reporting to Covered Entity on the basis of there being a pending determination of whether the incident may result in a "low probability" that Covered Entity's PHI was compromised under the Breach Notification Laws. Covered Entity has the sole and unfettered right to make any and all risk assessment determinations, and Business Associate shall cooperate with investigations if requested by Covered Entity in order for Covered Entity to comply with its obligations under HIPAA.

- (iv) Assistance and Cooperation. Business Associate shall provide Covered Entity with such information as may be required for Covered Entity to appropriately determine whether an incident is a Security Incident or Breach and provide such notification as may be required under the Breach Notification Laws. Business Associate agrees to assist and cooperate with Covered Entity as needed for Covered Entity and Business Associate to fully comply with the Breach Notification Laws. If Business Associate is the direct or indirect cause of a Breach of Covered Entity's PHI, including any of Business Associate's employees, owners, directors, managers, subcontractors, agents, independent contractors, or affiliates, Business Associate shall provide Covered Entity, at Business Associate's sole cost, administrative support and other resources as may be requested by Covered Entity in order to furnish written notices to individuals affected by the Breach and otherwise comply with the Breach Notification Laws. In the event that Business Associate does not provide such requested assistance and resources in a timely manner, as determined by Covered Entity in its sole and unfettered discretion, then Business Associate shall reimburse Covered Entity for all reasonable and actual costs and expenses (e.g., postage; supplies; administrative staff time, etc.) incurred by Covered Entity in its efforts to comply with the Breach Notification Laws.

- (v) Indemnification for Failures to Discover or Report Breaches. Business Associate shall defend, indemnify and hold harmless Covered Entity and each of its owners, officers, directors, managers, employees, agents and subcontractors ("Covered Entity Affiliates") from and against any and all penalties, claims, fines, losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees and expenses) incurred by Covered Entity or any Covered Entity Affiliates arising out of or in connection with Business Associate's negligent failure to (a) discover a Breach, (b) timely notify Covered Entity of a Breach that is known or should have been known to Business Associate

ATTACHMENT B – HIPPA AGREEMENT

or (c) otherwise comply with Business Associate’s obligations under the Breach Notification Laws and this Agreement.

- 5) Requested Restrictions. Business Associate acknowledges that Covered Entity is required under § 13405(a) of HITECH to comply with an individual’s requested restriction regarding his or her PHI (unless the disclosure is otherwise required by law) if:
- a) the disclosure is to a health plan only for purposes of carrying out payment or health care operations (but not treatment); and
 - b) Covered Entity’s PHI pertains solely to a health care item or service for which Covered Entity has been paid out-of-pocket in full by the individual or the individual’s representative.

Business Associate shall comply with any such requested restriction that applies to Business Associate’s further use or disclosure of Covered Entity’s PHI and of which Business Associate is made aware.

- 6) Availability of Information to Covered Entity. Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill Covered Entity’s obligations to provide access to, provide a copy of, and account for disclosures with respect to Covered Entity’s PHI pursuant to HIPAA, including, but not limited to, 45 CFR § 164.524, and making available PHI maintained in an electronic designated record set in an electronic form and format as requested by the individual if readily producible. Nothing in this provision shall be construed to preclude or limit Business Associate’s obligations under the law, specifically with respect to the provision of access to individuals of their PHI and the provision of an accounting of disclosures to individuals of their PHI.
- 7) Amendment of PHI. Business Associate shall make Covered Entity’s PHI available to Covered Entity as Covered Entity may require to fulfill Covered Entity’s obligations to amend Covered Entity’s PHI pursuant to HIPAA, including, but not limited to, 45 CFR §164.526, and Business Associate shall, as directed by Covered Entity, incorporate any amendments to Covered Entity’s PHI into copies of such PHI maintained by Business Associate. Nothing in this provision shall be construed to preclude or limit Business Associate’s obligations under the law, specifically with respect to the amendment of Covered Entity’s PHI by Business Associate.
- 8) Business Associate’s Subcontractors.
- a) Subcontractor Agreement. Business Associate shall not transmit Covered Entity’s PHI to any Subcontractor or prospective Subcontractor except as otherwise provided herein. In accordance with the Omnibus Rule, Business Associate shall enter into a written subcontractor agreement (the “Subcontractor Agreement”) with any Subcontractor that creates, receives, maintains, or transmits Covered Entity’s PHI on behalf of Business Associate. In the event that Business Associate knows of a pattern of activity or practice of a Subcontractor that constitutes a material breach or violation of the Subcontractor’s obligation under the Subcontractor Agreement or other arrangements, Business Associate shall notify Covered Entity and take

ATTACHMENT B – HIPPA AGREEMENT

reasonable steps to cure such breach or end the violation, as applicable, to Covered Entity's satisfaction and, if such steps prove unsuccessful, terminate the Subcontractor Agreement or other arrangements, if feasible. A Subcontractor Agreement shall contain, among other things, the following:

1. the agreement of Subcontractor to comply as to Covered Entity's PHI with the same restrictions and conditions that apply to Business Associate under this Agreement;
 2. Subcontractor shall, in accordance with HIPAA, use and disclose only the minimum amount of Covered Entity's PHI necessary for Subcontractor to perform its services under its agreement with Business Associate;
 3. Subcontractor shall abide by all Minimum Necessary standards when using and disclosing Covered Entity's PHI;
 4. if Subcontractor is an agent of Business Associate, Subcontractor shall not transmit Covered Entity's PHI to any third party or prospective Subcontractor without the prior review or approval by Business Associate of such third party or prospective Subcontractor and/or as otherwise provided in the Subcontractor Agreement;
 5. Subcontractor shall use or disclose Covered Entity's PHI only as permitted or required by the Subcontractor Agreement or as required by law;
 6. Subcontractor shall not use or disclose Covered Entity's PHI in a manner that would violate the requirements of HIPAA or the Omnibus Rule if done by Covered Entity; and
 7. Covered Entity shall be expressly included as a third-party beneficiary to the Subcontractor Agreement and shall be afforded, without limitation, all rights and benefits associated therewith.
- b) Foreign Entities. Business Associate shall not disclose any of Covered Entity's PHI to a subcontractor not within the borders and jurisdiction of the United States of America without prior written consent of Covered Entity which may be withheld in Covered Entity's sole and unfettered discretion.
- 9) Internal Practices. Business Associate shall make its internal practices, books and records relating to the use and disclosure of Covered Entity's PHI available to the HHS for purposes of determining Covered Entity's compliance with HIPAA.
- 10) Accounting of Disclosures. Business Associate shall maintain and make available documentation as required under § 164.528 of the Privacy Rule to allow Covered Entity to respond to an individual's request for an accounting of disclosures by Business Associate. Business Associate shall provide such information as may be necessary in order for Covered Entity to respond to an individual's request for an accounting of

ATTACHMENT B – HIPAA AGREEMENT

disclosures as required by 45 C.F.R. § 164.528, as modified by HIPAA and its implementing accounting of disclosure rules and regulations.

- F. State Law. Business Associate shall comply with any provision or requirement concerning privacy or security of information under Pennsylvania law that is more stringent than a similar provision or requirement under HIPAA or this Agreement.
- G. Red Flags Rule. With respect to Business Associate’s access to, use or handling of information in connection with Covered Entity’s “Covered Accounts” (as defined under the Federal Trade Commission’s Red Flags Rule (the “Red Flags Rule”) and identified by Covered Entity), Business Associate shall, as of the Effective Date of this Agreement:
- 1) Implement reasonable administrative, physical and technical policies and procedures to detect, prevent and mitigate the risk of identity theft at Business Associate;
 - 2) Cooperate with and take such steps as are reasonably necessary to assist Covered Entity with compliance with its Identity Theft Prevention Program; and
 - 3) Promptly report to Covered Entity any specific Red Flags, as identified in Covered Entity’s Red Flag policies, which Business Associate detects, and, as appropriate, respond to, or reasonably assist Covered Entity in responding to, such Red Flags in accordance with Covered Entity’s policies and procedures.
- H. Audits, Inspection and Enforcement. Covered Entity may, upon reasonable notice, inspect the facilities, systems, books and records of Business Associate to monitor compliance with this Agreement. Business Associate shall promptly remedy any violation of any term of this Agreement and notify Covered Entity of the outcome.
- I. Termination.
- 1) Noncompliance. If either Party notifies (the “Notifying Party”) the other Party regarding an activity or practice that constitutes a material breach or violation of such other Party’s obligation under this Agreement, HIPAA or any other applicable laws concerning the privacy and security of health information (the “Breaching Party”), and such Breaching Party does not take reasonable steps to or otherwise does not successfully cure the breach or end the violation, as applicable, within a reasonable timeframe as agreed to by the Parties, the Notifying Party is permitted to the extent feasible, terminate this Agreement and the BA Services Contract. The foregoing is not intended to and does not; limit any other remedy which may be available to the Notifying Party hereunder or as a matter of law.
 - 2) Judicial or Administrative Proceedings. Either Party may terminate this Agreement and the BA Services Contract, effective immediately, if:
 - a) the other Party is named as a defendant in a criminal proceeding for a violation of HIPAA; or
 - b) a finding or stipulation that the other Party has violated any standard or requirement of HIPAA or other security or privacy law is made in any administrative or civil proceeding in which the Party has been joined.

ATTACHMENT B – HIPPA AGREEMENT

- 3) Effect of Termination. Upon termination of the BA Services Contract for any reason, Business Associate shall return to Covered Entity and destroy all of Covered Entity's PHI that Business Associate still maintains in any form, and shall retain no copies of such PHI, or if return or destruction is not feasible, Business Associate agrees, at Covered Entity's reasonable expense, to continue to extend the protections of this Agreement to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.
- J. Indemnification. Business Associate shall indemnify, hold harmless and defend Covered Entity from and against any and all penalties, claims, fines, losses, liabilities, costs and other expenses, including court costs and reasonable attorneys' fees and disbursements, incurred as a result of, or arising directly or indirectly out of or in connection with:
- 1) any misrepresentation, breach of warranty or non-fulfillment of any undertaking by Business Associate under this Agreement; and
 - 2) any claims, demands, awards, judgments, actions and proceedings made by any person or organization arising out of or in any way connected with Business Associate's performance under this Agreement.
- K. Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement or HIPAA will be adequate or satisfactory for Business Associate's own purposes or that any information in Business Associate's possession or control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.
- L. Amendment. The Parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The Parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA and other applicable laws relating to the security or confidentiality of PHI. The Parties understand and agree that Covered Entity must receive satisfactory written assurance from Business Associate that Business Associate will adequately safeguard all PHI that it receives or creates pursuant to the delivery of the BA Services and this Agreement. Upon either Party's request, both Parties agree to promptly enter into negotiations concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA or other applicable laws. Either Party may terminate the BA Services upon thirty (30) days' written notice in the event:
- 1) the other Party does not promptly enter into negotiations to amend this Agreement when requested by a Party pursuant to this Section; or
 - 2) the other Party does not enter into an amendment to this Agreement providing assurances regarding the safeguarding of PHI sufficient to satisfy the standards and requirements of HIPAA.
- M. No Third-Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, the Covered

ATTACHMENT B – HIPPA AGREEMENT

Entity Affiliates and Business Associate and their respective heirs, representatives, successors and assigns, any rights, remedies, obligations or liabilities whatsoever, whether as creditor beneficiary, donor beneficiary or otherwise.

- N. Independent Contractor. Nothing contained herein shall be deemed or construed by the Parties hereto or by any third party as creating the relationship of employer and employee, principal and agent, partners, joint venturers or any similar relationship, between the Parties hereto. Covered Entity and Business Associate acknowledge and agree that Business Associate is an independent contractor and not an agent of Covered Entity, and Business Associate shall be solely liable for the payment of all income, unemployment, workers compensation, Social Security insurance or similar taxes or assessments on the fees or other remuneration paid or to be paid to Business Associate by Covered Entity.
- O. Miscellaneous.
- 1) Entire Agreement. This Agreement supersedes all previous agreements between Covered Entity and Business Associate and contains the entire understanding and agreement between the Parties with respect to the subject matter hereof.
 - 2) Headings. The headings in this Agreement are for convenience of reference only and shall not be used to interpret or construe its provisions.
 - 3) Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the Commonwealth of Pennsylvania without regard to conflicts of laws principles.
 - 4) Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, each Party hereto and their respective successors and assigns.
 - 5) Mutual Negotiation. Each and every provision of this Agreement has been mutually negotiated, prepared and drafted and, in connection with the construction of any provisions hereof, no consideration shall be given to the issue of which Party actually prepared, drafted, requested or negotiated any provision of this Agreement, or its deletion.
 - 6) Notices. All notices, demands and other communications to be made hereunder (“Notice”) shall be given in writing and shall be deemed to have been duly given if personally delivered or sent by confirmed facsimile transmission, recognized overnight courier service which provides a receipt against delivery, or certified or registered mail, postage prepaid, return receipt requested, to the other Party at the address set forth in the first paragraph of this Agreement. Notice shall be deemed effective, if personally delivered, when delivered; if sent by confirmed facsimile transmission, when sent; if sent via overnight delivery, on the first business day after being sent, and if mailed, at midnight on the third business day after deposit in the U.S. mail.
 - 7) Modification. This Agreement may be amended, superseded, terminated or extended, and the terms hereof may be waived, only by a written instrument signed by all of the Parties or, in the case of a waiver, signed by the Party waiving compliance.

ATTACHMENT B – HIPPA AGREEMENT

- 8) Preservation of Rights. No delay on the part of any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any Party of any such right, power or privilege, nor any single or partial exercise of any right, power or privilege, preclude any further exercise thereof or the exercise of any other such right, power or privilege. The rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies that any Party may otherwise have at law, in equity or otherwise.
- 9) Provisions Severable. The provisions of this Agreement are independent of and severable from each other. No provisions will be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any one or more of any of the provisions hereof may be invalid or unenforceable in whole or in part.
- 10) Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the Parties hereto.
- 11) Interpretation. The Parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA.
- 12) Survival. Any provision of this Agreement that, by its nature, is intended to survive the termination or expiration of this Agreement and/or the BA Services Contract shall survive the termination or expiration of this Agreement and/or the BA Services Contract, including, but not limited to, Paragraph E, Sections (1)(f), (2), (4)(b)(3), (9), and (10), Paragraph I, Section (3), and Paragraph J.

[Signatures on the following page]

ATTACHMENT B – HIPPA AGREEMENT

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Parties hereto have duly executed this Agreement on the day and year below written:

COVERED ENTITY:

BUSINESS ASSOCIATE:

COUNTY OF BERKS

VENDOR NAME

By: _____
Print Name: Kelly A. Laubach
Title: Director of Contracts and Procurement
Date: _____
EIN: 23-6003049

By: _____
Print Name: _____
Title: _____
Date: _____
EIN: _____

ATTEST:

ATTEST:

By: _____

By: _____

Name (printed): Candace L. Noll

Name (printed): _____

Title: Contract Manager

Title: _____

ATTACHMENT C – NON-COLLUSION AFFIDAVIT FORM

INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Non-Collusion Affidavit is material to any Agreement pursuant to a Proposal. According to the Pennsylvania Antirigging Act, 62 Pa. C.S.A. § 4501 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with Proposals, such as the Proposal submitted by the Proposer.
2. This Non-Collusion Affidavit must be executed by the member officer, or employee of the Proposer who is authorized to legally bind the Proposer.
3. Proposal rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should carefully examine it before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the Proposer with responsibilities for the preparation, approval or submission of the Proposal.
4. If the Proposal is submitted by a joint venture, each party to the venture must be identified in the Proposal documents, and a Non-Collusion Affidavit must be submitted separately on behalf of each party.
5. The term “complementary Proposal” as used in the Non-Collusion Affidavit has the meaning commonly associated with that term in the RFP process, and includes the knowing submission of a Proposal higher than the Proposal of another firm, any intentionally high or noncompetitive Proposal, and any form of Proposal submitted for the purpose of giving a false appearance of competition.
6. Failure to file a Non-Collusion Affidavit in compliance with these instructions will result in disqualification of the Proposal.

ATTACHMENT C – NON-COLLUSION AFFIDAVIT FORM

NON-COLLUSION AFFIDAVIT

State of _____

County of _____

_____, being first duly sworn, deposes and says that:

(1) He/She is _____
(Owner, Partner, Officer, Representative or Agent of Proposer)

of _____, the Proposer that
(Name of the Proposer)
has submitted the attached Proposal;

(2) He/She is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;

(3) Such Proposal is genuine and is not a collusive or sham Proposal;

(4) Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, firm or person to submit a collusive or sham Proposal or complementary Proposal in connection with the Contract for which the attached Proposal is submitted or to refrain from submitting in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication of conference with any other Proposer, firm or person to fix the price or prices in the attached Proposal or of any other Proposer, or to fix any overhead, profit or cost element of the prices in the Proposal or the price of any other Proposer, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the County of Berks or any person interested in the proposed Agreement;

(5) The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Proposer or any of its agents, representatives, owners, employees, or parties in interest, including this affiant; and,

(6) Neither the said Proposer nor any of its officers, partners, owners, agents or parties in interest, have any interest, present or prospective, that can be reasonably construed to result in a conflict of interest between them and the County of Berks, which the Proposer will be required to perform.

ATTACHMENT C – NON-COLLUSION AFFIDAVIT FORM

I state that _____ understands
(Name of Proposer)

and acknowledges that the above representations are material and important and will be relied on by the County of Berks in awarding the Agreement for which the Proposal is submitted. I understand and the Proposer understands that any misstatement in this Non-Collusion Affidavit is and shall be treated as fraudulent concealment from the County of Berks of the true facts relating to the submission of proposals for this Agreement.

Name: _____

By: _____
Authorized Signatory

Title: _____
President or Vice President

SWORN TO AND SUBSCRIBED
BEFORE ME THIS _____ DAY
OF _____, 20__

Notary Public

My Commission Expires: _____

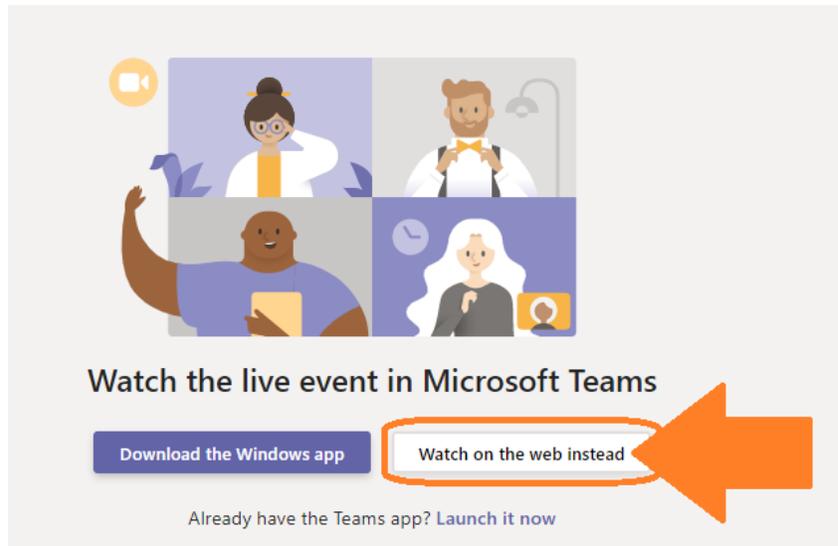
Attachment D

How to Join a Teams Live Event

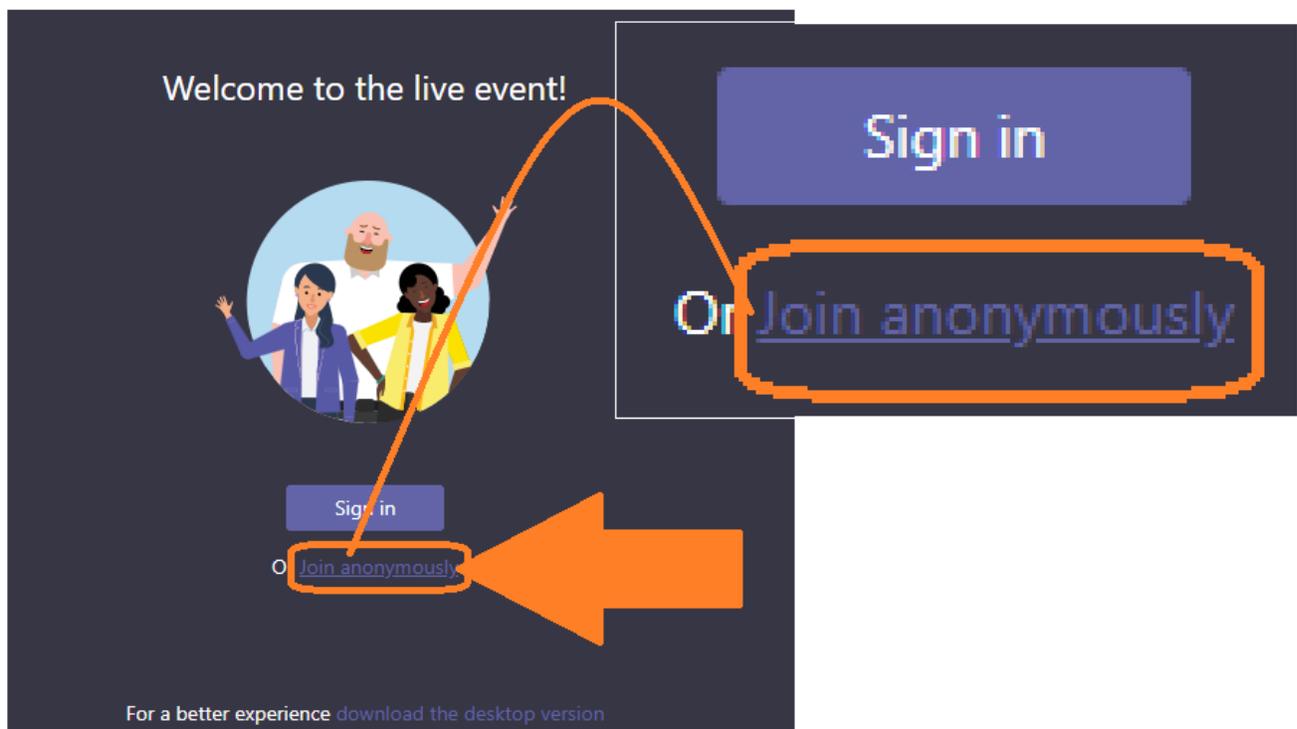
Teams works best in Edge or Chrome. It does not work in Internet Explorer.

The Meeting

- Step # 1. Go to the Purchasing ITB page on the County website at [https://www.co.berks.pa.us/Dept/Purchasing/Pages/InvitationstoBid\(ITB\)andRequestforProposals\(RFP\).aspx](https://www.co.berks.pa.us/Dept/Purchasing/Pages/InvitationstoBid(ITB)andRequestforProposals(RFP).aspx) the Teams Live Event link for the Bid Opening will be posted with each specific Bid Request.
- Step # 2. Click on the meeting link associated with the Bid you are interested in.
- Step # 3. Click Watch on the web instead.



- Step # 4. You will be prompted to download the Teams app, Open in web browser (Edge or Chrome) or Launch the Teams app if you already have it. You can select Join on the web instead and join as a guest. If you have used Teams in the past, launch the app and use a verified account.



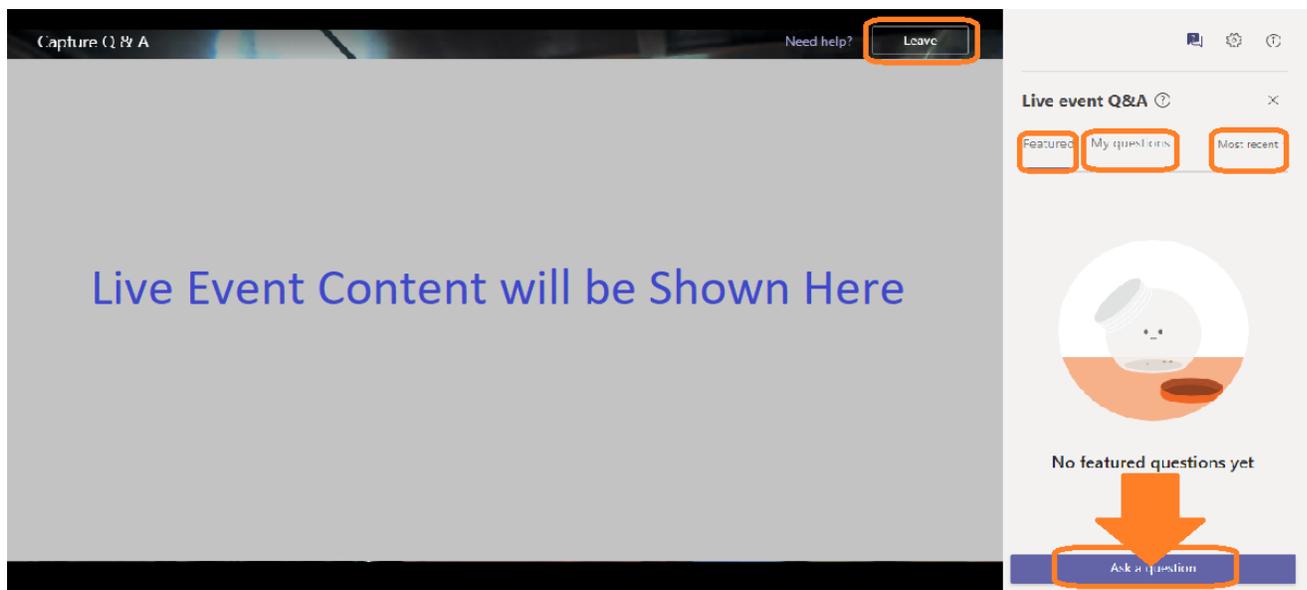
Step # 5. You have successfully joined the meeting. Your and all other Public participants video and microphones will not be used during the event. All of you will see and hear what is being presented. If you cannot hear presenters, be sure your speaker is not muted or at 0%.

Step # 6. You can submit a question or view questions asked by others in the panel on the right in the Live Q & A. Click the Ask a Question button in lower right-hand corner to submit your question. Questions will either be replied to in the Live Q & A section on the right or read and responded to during the event. That will be determined by the presenters during the Live event. Live Q & A has three tabs:

- a. Featured
- b. My questions
- c. Most Recent

Move between the tabs to see what others have asked and responses received as well as review your own questions and responses received.

Step # 7. To end the Live event, use the Leave button in upper right-hand side of the screen.



End of process

Attachment E - Price Proposal Form

Care Management & Caregiver Support Program Monthly Cost Breakdown	Years 1 - 3
Salaries by Position:	
Program Director	
Program Supervisor(s)	
Care Managers	
Support Staff	
Other (List)	
Subtotal	
Fringes to Position:	
Program Director	
Program Supervisor(s)	
Care Managers	
Support Staff	
Other (List)	
Subtotal	
Occupancy:	
Rent	
Utilities (List)	
Building & Ground	
Maintenance	
Building Insurance	
Other (List)	
Subtotal	
Communications:	
Telephone	
Printing (List)	
Other (List)	
Subtotal	
Supplies/Minor Equipment:	
Equipment Maintenance	
Office Supplies	
Program Supplies	
Minor Equipment (List)	
Subtotal	
Other Operating Costs:	
Start-Up Training (includes Travel)	
Liability Insurance	
Other (List)	
Subtotal	
Fixed Assets (List)	
Other (List)	

Subtotal	
Total Annual Cost (equal to total of all subtotals here)	
Total Monthly Cost/Fee	