

5/11/2023

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of Amendment #2 increasing funding of an Intergovernmental Grant Agreement with the State of Oregon Department of Human Services for Older Americans Act and Oregon Project Independence Programs. Amendment value is \$2,152,340, agreement value is increased to \$9,428,410 for two years. Funding is through the State of Oregon. No County General Funds are involved.

Previous Board Action/Review	Original Agreement Approved: 20211104.B.4 Amendment #1 Approved: 20220421 IV.B.vii Briefed at Issues – 5/9/2023		
Performance Clackamas	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy, and secure communities by addressing the needs of older adults in the community.		
Counsel Review	Yes AN 4/19/2023	Procurement Review	No
Contact Person	Brenda Durbin, Director	Contact Phone	503-655-8641

EXECUTIVE SUMMARY: The Social Services Division of the Health, Housing and Human Services requests approval of the Subrecipient Intergovernmental Grant Agreement #171482-2 with the State of Oregon, Dept. of Human Services, Aging and People with Disabilities, Community Services, and Supports. This amendment provides additional grant funding for the Social Services Division to administer the Older American Act (OAA) and Oregon Project Independence (OPI) funded services to support services for persons 60 and over living in Clackamas County.

The OAA and OPI funded services provided include nutrition programs, evidence-based health promotion activities, family caregiver supports, transportation, case management, information and referral activities, and in-home services. These services link residents with resources to meet their individual needs, helping them to remain independent and active in their communities for as long as possible. Since July 2021, over 445,000 meals have been provided to older adults in Clackamas County. The majority of these meals were home-delivered to homebound seniors. In addition, over 46,000 rides were provided for seniors and individuals with disabilities and 13,500 calls for information and assistance were answered by County senior centers and the Aging & Disability Resource Center.

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www.clackamas.us

RECOMMENDATION: Staff recommends the Board approve this Intergovernmental Grant Agreement and authorize the Chair to sign on behalf of the County.

Respectfully submitted,

Rodney A. Cook

Rodney A. Cook
Health, Housing & Human Services



Grant Agreement Number 171482

**AMENDMENT TO
STATE OF OREGON
INTERGOVERNMENTAL GRANT AGREEMENT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This is amendment number **02** to Grant Agreement Number **171482** between the State of Oregon, acting by and through its Oregon Department of Human Services, hereinafter referred to as “**ODHS**” and

**Clackamas County Acting by and through its
Clackamas County Social Services Division (CCSS)
District 2, Type A Serving: Clackamas County
Attention: Brenda Durbin
PO Box 2950 - 2051 Kaen Road
Oregon City, Oregon 97045
Telephone: 503-655-8640
Facsimile: 503-655-8889**

**E-mail address: brendadur@clackamas.us; teresachr@clackamas.us;
ADS-ContractBilling@clackamas.us;**

hereinafter referred to as “**Recipient**”, “**AAA**” (or “Agency” when applicable), or “**County**” interchangeably.

1. This amendment shall become effective when this amendment has been fully executed by every party and, when required, approved by the Oregon Department of Justice. Recipient’s performance of the program described in Exhibit A, Part 1, “Program Description” as amended by this Amendment 02 may start on **July 1, 2021** (unless limited by the terms of Exhibit A, Part 1), shall be governed by the terms and conditions of the amended Agreement, and for such expenses incurred by Recipient may be reimbursed once the amendment is effective in accordance with the schedule of payments in Exhibit A, Part 2, “Disbursement and Financial Reporting”.

2. The Agreement is hereby amended as follows: language to be deleted is ~~struck through~~; new language is shown **underlined and bold**.

a. Section 3. “Grant Disbursement Generally” as follows:

3. Grant Disbursement Generally. The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is ~~\$7,276,070.00~~ **\$9,428,410.00**. ODHS will not disburse grant to Recipient in excess of the not-to-exceed amount and will not disburse grant until this Agreement has been signed by all parties. ODHS will disburse the grant to Recipient as described in Exhibit A.

b. Exhibit A, Part 1, “Program Description”, Section 1. “Services to be Provided”, add new Subsection e. “Oregon Project Independence – Medicaid (OPI-M) and Family Caregiver Assistance Program (FCAP)” as follows:

e. Oregon Project Independence – Medicaid (OPI-M) and Family Caregiver Assistance Program (FCAP) as set out in Oregon Administrative Rules (OAR) and Program Standards (both forthcoming). This will be a new 1115 Medicaid demonstrative waiver program and initial funding for this program will provide the Recipient initial funds to hire, train County staff, and prepare County staff for the implementation of this program. Recipient may also use this funding for ongoing case management.

c. Exhibit A, Part 1, “Program Description”, Section 5. “Management Control Functions”, Subsection a. “Criminal Records and Abuse Checks”, as follows:

a. Criminal Records and Abuse Checks. AAA agrees to utilize the ODHS ORCHARDS (Oregon Criminal History and Abuse Records Data System) to meet provider requirements set forth in OAR 407-007-0200 through 407-007-0370 and ORS 181A.195 through 181A.200 and ORS 443.004. “Subject Individuals” as defined in ORS Chapter 181A that require criminal history and abuse checks are employees of the AAA; volunteers of AAA; employees and volunteers of AAA’s subcontractors and direct care providers of consumers for which AAA provides service authorization. The process for a AAA employee’s removal from service or dismissal shall adhere to ~~Agency AAAs~~ **AAAs** dismissal policies and collective bargaining agreements, as applicable, to discharge an employee. **AAA shall provide ODHS with a copy of their local background check policy, so that ODHS may monitor to ensure state requirements are consistently included.**

d. Exhibit A, Part 1, “Program Description”, Section 5. “Management Control Functions”, add new Subsection f. “Compliance with Homecare Worker Collective Bargaining Agreement”, as follows:

e. Compliance with Homecare Worker Collective Bargaining Agreement between the Department of Administrative Services, on behalf of the State of Oregon and the Oregon Home Care Commission and Service Employees International Union Local 503, Oregon Public Employee Union (CBA), commonly referred to as HCW CBA. As the contracted delivery partner for

Oregon Project Independence (OPI), AAA agrees to follow specific listed Articles of the CBA for Homecare Workers providing service within OPI. The specific Articles are outlined in the Table 1 on the next page:

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Table 1

ARTICLE #	SECTION #	PARAGRAPH	REQUIREMENT
ARTICLE 8 – PAYROLL SYSTEMS			
8	4	d	County shall follow Case Management Entity obligations.
8	7	f	County shall follow ODHS/OHA obligations.
ARTICLE 14 – SERVICE PAYMENTS			
14	1	a	County shall adhere to the requirements of the paragraph.
-	-	-	County shall impose the prior authorization requirements and provide the task list, following CME guidelines
14	1	d	County shall impose the prior authorization requirements.
14	1	e	County shall follow Case Management Entity guidelines.
14	3	Entirety	County shall follow local office guidelines; letter provided by County under this Section does not create any additional financial liability for County.
ARTICLE 14.1 – SERVICE PAYMENTS FOR HOMECARE WORKERS			
14.1	2	Entirety	County shall follow case manager assessment guidelines.
ARTICLE 15 – TRAVEL TIME, TRANSPORTATION AND MILEAGE REIMBURSEMENT			

ARTICLE #	SECTION #	PARAGRAPH	REQUIREMENT
15	3	1 st paragraph only	County will follow prior authorization requirements for reimbursements.
15	4	Entirety	County will follow Case Management Entity guidelines for reimbursements.
15	6	Entirety	County will follow Case Management Entity guidelines and obligations.
ARTICLE 16 – TIME-OFF REQUEST PROCESS			
16	Entirety	Entirety	County will follow Case Manager/Personal Agent/Service Coordinator and Local Service Delivery Office guidelines.
ARTICLE 17.1 – TASK LIST OF AUTHORIZED SERVICES FOR HOMECARE WORKERS			
17.1	Entirety	Entirety	County will follow OHA/DHS/SPD/AAA local office (“Local Office”) guidelines.
ARTICLE 19 – SERVICE PAYMENT OVERPAYMENTS			
19	3	Entirety	County will follow Case Management Entity guidelines.
ARTICLE 20 – HEALTH AND SAFETY			
20	1	Entirety	County will follow Case Management Entity guidelines.
20	3	Entirety	County will follow Case Management Entity guidelines.
20	4	Entirety	County will follow Case Management Entity and Program Manager guidelines.
20	7	Entirety	County will follow Case Management Entity guidelines.

ARTICLE #	SECTION #	PARAGRAPH	REQUIREMENT
ARTICLE 24 – OVERTIME AND HOUR LIMITATIONS			
24	4	Entirety	County will follow DHS/OHA, or designee guidelines.
24	6	Entirety	County will follow case management entity guidelines.
ARTICLE 27 – AMERICANS WITH DISABILITIES ACT (ADA) ACCOMMODATIONS			
27	1	Entirety	County will follow Case Management Entity guidelines.

- f. Exhibit A, Part 1, “Program Description”, add new Section 12. “State and Local Fiscal Recovery Fund (SLFRF)” as follows:

12. State and Local Fiscal Recovery Fund (SLFRF). SLFRF funding can be used by AAAs for Home Delivered Meals (HDMs) to an eligible person under the OAA within the AAA’s planning and service area. Funding may be used to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024, as long as the awarded funds are obligated by December 31, 2024, and are expended by December 31, 2026. AAAs will be allowed to carry forward unspent SLFRF funds past the present 2021-2023 biennium until these deadlines.

- g. Exhibit A, Part 2, “Disbursement and Financial Reporting”, Section 1. “Funding Appropriations”, Subsection b. as follows:

b. Payment for all work performed under this Agreement shall be subject to the provisions of ORS 293.462 and disbursements under this Agreement shall both be based on the allocations as set forth in the table below and made on a reimbursement basis, upon ODHS approval of AAA’s disbursement request.

Older Americans Act	\$3,468,109 <u>\$3,512,184</u>	CFDA 93.041, 93.043, 93.044, 93.045, 93.052
American Rescue Plan (ARP)	\$1,759,461.00	CFDA 93.043, 93.044, 93.045, 93.052
Expanding Access to COVID-19 Vaccine (VAC5)	\$63,728.00	CFDA 93.044
NSIP	\$306,577 <u>\$305,062</u>	CFDA 93.053
IT Admin Funds	\$7,293	
Continued Sequestration Mitigation	\$214,495	
Oregon Project Independence (age 60+ or age under 60 with an Alzheimer’s Disease or related disorder diagnosis)	\$1,048,576 <u>\$1,572,864</u>	
Oregon Project Independence (age 19-59 with disability)	\$0	
Unspent ’19-’21 Biennia Funding: FFCRA (\$0) CARES (\$177,256) HDC5 (\$230,575)	\$407,831	CFDA 93.044, 93.045, 93.052
Other State Funds	\$0	
<u>SLFRF Home Delivered Meals</u>	<u>\$157,233</u>	<u>CFDA 93.045</u>
<u>OPI-M & FCAP Ongoing Case Management</u>	<u>\$1,222,537</u>	<u>CFDA 93.778</u>

<u>Diversity, Equity, and Inclusion Bonus Funding</u>	<u>\$205,722</u>	
Allocation Total	\$7,276,070.00 <u>\$9,428,410</u>	

- h. Exhibit A, Part 2, “Disbursement and Financial Reporting”, Section 2. “Fiscal Control Functions”, Subsection g. “OAA Minimum Expenditure Requirements”, add new paragraph (6) as follows:

(6) Ensure ARP expenditures also meet the minimum spending for In-Home Services, legal assistance and access services as indicated above in paragraphs (1), (2), and (3), unless a waiver is requested and approved by ODHS in accordance with sections 306(b) and 307(a)(2) of the Older Americans Act.

- i. Exhibit A, Part 3, “Special Provisions”, Section 1. “HIPAA Compliance”, second paragraph only, is amended as follows:

1. HIPAA Compliance. As a Business Associate of a Covered Entity, ODHS must comply with the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), and ODHS must also comply with OAR 943-014-0400 through OAR 943-014-0465. Recipient is a Business Associate of ODHS and therefore must comply with OAR 943-014-0400 through OAR 943-014-0465 and the Business Associate requirements set forth in 45 CFR 164.502 and 164.504.

Recipient shall be liable to ODHS for any and all costs incurred by ODHS, including, but not limited to, costs of issuing any notices required by HIPAA, HITECH or any other applicable law and damages to third parties as a result of Recipient’s Breach of Unsecured Protected Health Information. **Recipient shall ensure all staff, volunteers, and subcontractors who provide services under this Agreement complete an annual HIPAA awareness training to understand and adhere to required confidentiality practices.**

- j. Exhibit A, Part 3, “Special Provisions”, new Section 7. “Conflict Free Case Management”, as follows:

7. Conflict Free Case Management. Case management services shall be conflict free in accordance with federal rules provided in the ODHS’s “Firewall Policy for Conflict Free Case Management”, hereby incorporated by reference into this Agreement. In situations where the only willing and qualified provider does both case management and direct services, the following firewalls must be in place to ensure a separation of functions within the organization. Direct services are services provided by the AAA yet paid for through contracts/agreements with partners (ex: hospitals, Medicare, Coordinated Care Organizations, and Medicaid Home Delivered Meals).

a. Administrative: There must be administrative separation between assessments, service planning, and those delivering direct services.

b. Case Management and Direct Services: Case Management and Direct Services must be separate.

c. Person-Centered Plan: Direct Services/Providers shall not develop an individual's person-centered plan.

When the AAA is aware of any conflict, the AAA should refer to ODHS' Firewall Policy for Conflict Free Case Management and submit identified actions to ODHS. Identified actions shall be reviewed initially and are subject to ongoing monitoring to ensure all firewalls remain in place and any conflict is mitigated.

3. Except as expressly amended above, all other terms and conditions of the original Agreement and any previous amendments are still in full force and effect.
4. **Certification.** Without limiting the generality of the foregoing, by signature on this Amendment, the Recipient hereby certifies under penalty of perjury that:
 - a. Recipient acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the Recipient and that pertains to this Agreement or to the project for which the grant activities are being performed. Recipient certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Recipient further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Recipient;
 - b. The information shown in Section 5 "Recipient Information", is Recipient's true, accurate and correct information;
 - c. To the best of the undersigned's knowledge, Recipient has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
 - d. Recipient and Recipient's employees and agents connected with the program(s) funded with this grant are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
 - e. Recipient is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" found at: <https://www.sam.gov/SAM>;
 - f. Recipient is not subject to backup withholding because:
 - (1) Recipient is exempt from backup withholding;

- (2) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends; or
- (3) The IRS has notified Recipient that Recipient is no longer subject to backup withholding; and
- g. Recipient hereby certifies that the FEIN or SSN provided to ODHS is true and accurate. If this information changes, Recipient is required to provide ODHS with the new FEIN or SSN within 10 days.

5. Recipient Information. Recipient shall provide the information set forth below.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

Recipient Name (exactly as filed with the IRS): _____

 Clackamas County

Street address: _____
 2051 Kaen Road

City, state, zip code: _____
 Oregon City, OR 97045

Email address: _____
 Brendadur@clackamas.us

Telephone: _____
 (503) 655-8641 Facsimile: _____
 (503) 655-8889

Recipient Proof of Insurance. Recipient shall provide the following information upon submission of the signed Agreement Amendment. All insurance listed herein must be in effect prior to Agreement Amendment execution.

Workers' Compensation: Does Recipient have any subject workers, as defined in ORS 656.027? (Check one box): YES NO *If YES, provide the following information:*

Workers' Compensation Insurance Company: _____
 Self insured

Policy #: _____ Expiration Date: _____

