

May 3, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with the State of Oregon,
Department of Consumer and Business Services, Oregon Insurance Division,
Senior Health Insurance Benefits Assistance (SHIBA) - Senior Medicare Patrol (SMP)

Purpose/Outcomes	To provide grant funds for the Senior Medicare Patrol (SMP) program to provide outreach, education and individual counseling regarding Medicare/Medicaid fraud, waste, and abuse to people in our community.
Dollar Amount and Fiscal Impact	Total revenue of \$10,000.
Funding Source	U.S. Administration for Community Living, State of Oregon, Department of Human Services, Aging and People with Disabilities, State Unit on Aging Grant provided through State of Oregon, Department of Consumer and Business Services, Senior Health Insurance Benefits Assistance. There is no match requirement. County General Funds are not involved.
Duration	June 1, 2021 to May 31, 2022
Previous Board Action	None
Strategic Plan Alignment	1. This funding aligns with H3S's strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the County's strategic priority to ensure safe, healthy and secure communities.
County Counsel	Review and approved by Andrew Naylor on 4/5/21
Procurement Review	This is a revenue contract and not subject to Procurement review.
Contact Person	Brenda Durbin, Director – Social Services Division – (503) 655-8641
Contract No.	10095

BACKGROUND:

The Social Services Division (SSD) of the Health, Housing and Human Services Department requests approval of a Grant Agreement from the State of Oregon, Department of Consumer and Business Services, Senior Health Insurance Benefits Assistance (SHIBA) to help carry out the Senior Medicare Patrol (SMP) program. The SMP program is intended to support the activities of the SSD Volunteer Connection's SHIBA program.

SHIBA is designed to educate senior and other Medicare recipients of their rights, resources and needs relating to Medicare and other health insurance. These services are invaluable to our seniors and disabled citizens and provide a much needed resource for our most vulnerable populations.

The SMP grant funds help the Volunteer Connection SHIBA program improve and expand State efforts to provide Medicare/Medicaid beneficiaries education of healthcare fraud, errors and abuse. Outreach efforts focus on high populations in rural, Hispanic and tribal communities.

The IGA is for one year, from June 1, 2021 to May 31, 2022, and is for a revenue total of \$10,000. County Counsel has reviewed and approved the IGA on 4/5/2021. There is no match requirement and no County General Funds are involved.

RECOMMENDATION:

Staff recommends approval of this amendment, and that H3S Director, or their designee be authorized to sign all documents on behalf of Clackamas County.

Respectfully submitted,

*Mary Deanebaugh
for Rodney A. Cook*

Rodney A. Cook, Interim Director
Health, Housing and Human Services Department

Contract Transmittal Form

Health, Housing & Human Services Department

H3S Contract #:	10095	Division:	SS
Board Order #:		Contact:	Diridoni, Jessica
		Program Contact:	Babcock, Kristina
		<input type="checkbox"/> Subrecipient	
		<input type="checkbox"/> Revenue	
		<input type="checkbox"/> Amend #	\$
		<input type="checkbox"/> Procurement Verified	
		<input type="checkbox"/> Aggregate Total Verified	

Non BCC Item BCC Agenda **Date:** _____

CONTRACT WITH: State of Oregon-#45G000240

CONTRACT AMOUNT: \$10,000.00

TYPE OF CONTRACT

- | | |
|---|--|
| <input type="checkbox"/> Agency Service Contract | <input type="checkbox"/> Memo of Understanding/Agreement |
| <input type="checkbox"/> Construction Agreement | <input type="checkbox"/> Professional, Technical & Personal Services |
| <input checked="" type="checkbox"/> Intergovernmental Agreement | <input type="checkbox"/> Property/Rental/Lease |
| <input type="checkbox"/> Interagency Services Agreement | <input type="checkbox"/> One Off |

DATE RANGE

- | | |
|--|--|
| <input checked="" type="checkbox"/> Full Fiscal Year _____ - _____ | <input checked="" type="checkbox"/> 4 or 5 Year _____ - _____ |
| <input checked="" type="checkbox"/> Upon Signature _____ - _____ | <input checked="" type="checkbox"/> Biennium _____ - _____ |
| <input checked="" type="checkbox"/> Other 06/01/2021 - 05/31/2022 | <input checked="" type="checkbox"/> Retroactive Request? _____ - _____ |

INSURANCE What insurance language is required?

- Checked Off N/A
- Commercial General Liability:** Yes No, not applicable No, waived
If no, explain why: _____
- Business Automobile Liability:** Yes No, not applicable No, waived
If no, explain why: _____
- Professional Liability:** Yes No, not applicable No, waived
If no, explain why: _____
- Approved by Risk Mgr _____
Risk Mgr's Initials and Date

BOILER PLATE CHANGE

Has contract boilerplate language been altered, added, or deleted?
 No Yes (must have CC approval-next box) N/A (Not a County boilerplate - must have CC approval)
 If yes, what language has been altered, added, or deleted and why: _____

COUNTY COUNSEL

Yes by: Andrew Naylor Date Approved: Monday, April 5, 2021
 OR
 This contract is in the format approved by County Counsel.

SIGNATURE OF DIVISION REPRESENTATIVE: Brenda Durbin Digitally signed by Brenda Durbin
Date: 2021.04.09 12:48:06 -0700
 Date: 4/9/21

H3S Admin Only
 Date Received: _____
 Date Signed: _____
 Date Sent: _____

AGREEMENTS/CONTRACTS

X New Agreement/Contract
 Amendment/Change Order Original Number _____

ORIGINATING COUNTY

DEPARTMENT: Health, Housing Human Services
Social Services

PURCHASING FOR: Contracted Services _____

OTHER PARTY TO

CONTRACT/AGREEMENT: State of Oregon-#45G000240 _____

BOARD AGENDA ITEM

NUMBER/DATE: _____

DATE: _____

PURPOSE OF

CONTRACT/AGREEMENT: his grant increases beneficiary access to a volunteer counselor work force that is fully trained, ensures SMP volunteer counselors are equipped to respond to healthcare fraud inquiries, provides personalized counseling to an increasing number and diversity of beneficiaries needing locally-based counseling services, provides targeted community outreach to beneficiaries and increases healthcare fraud education and reporting. This Contract is 100% funded with Federal funds. Local Government is a SHIBA sponsor covering Clackamas County.

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H3S CONTRACT NUMBER: 10095

INTERGOVERNMENTAL AGREEMENT

Agreement No. 45G000240

This Agreement is between the State of Oregon acting by and through its Department of Consumer and Business Services, Oregon Health Insurance Marketplace, Senior Health Insurance Benefit Assistance Program (“Agency”) and Clackamas County acting by and through its Health, Housing and Human Services Department, Social Services Division (“Local Government”), each a “Party” and, together, the “Parties”.

SECTION 1: AUTHORITY

This Agreement is authorized by ORS 190.110.

SECTION 2: PURPOSE

Oregon Department of Human Services (DHS), Aging and People with Disabilities, Client Services Supports Unit is the State of Oregon’s recipient of the Senior Medicare Patrol (SMP) grant (CFDA 93.048) from the U.S. Administration for Community Living (ACL). Agency receives annual interagency sub-grant agreements from DHS to help carry out the SMP grant projects objectives. Agency is providing this sub-grant with the intention to improve and expand State efforts to provide Medicare (and Medicare-Medicaid dual-eligible) beneficiaries education on how to prevent, detect and report healthcare fraud, errors (waste) and abuse.

This federal grant from the ACL helps ensure states have a network of trained staff and volunteer counselors to accomplish this task. This grant increases beneficiary access to a volunteer counselor work force that is fully trained, ensures SMP volunteer counselors are equipped to respond to healthcare fraud inquiries, provides personalized counseling to an increasing number and diversity of beneficiaries needing locally-based counseling services, provides targeted community outreach to beneficiaries and increases healthcare fraud education and reporting. This Contract is 100% funded with Federal funds. Local Government is a SHIBA sponsor covering Clackamas County.

SECTION 3: EFFECTIVE DATE AND DURATION

The “Effective Date” of this Agreement is the later of (i) June 1, 2021, or (ii) the date this Agreement has been fully executed by each party and, approved as required by applicable law. Unless extended or terminated earlier in accordance with its terms, this Agreement terminates on May 31, 2022, with an option to renew up to a cumulative three (3) years.

The termination of this Agreement will not extinguish or prejudice Agency's right to enforce this Agreement with respect to any default by Local Government that has not been cured.

SECTION 4: AUTHORIZED REPRESENTATIVES

4.1 Agency's Authorized Representative is:

Lisa Emerson, Medicare (SHIBA) Program Analyst
Department of Consumer and Business Services
Oregon Health Insurance Marketplace
350 Winter Street NE
PO Box 14480
Salem, OR 97309-0405
503-947-7087
lisa.emerson@oregon.gov

4.2 Local Government's Authorized Representative is:

Lois Orner, Human Services Manager
Clackamas County Social Services, Volunteer Connection
2051 Kaen Rd
PO Box 2950
Oregon City, OR 97045
503-655-8269
lorner@co.clackamas.or.us

4.3 A Party may designate a new Authorized Representative by written notice to the other Party.

SECTION 5: RESPONSIBILITIES OF EACH PARTY

5.1 Local Government shall perform the work set forth in Exhibit A, attached hereto and incorporated herein by this reference.

5.2 Agency shall pay Local Government as described in Section 6.

SECTION 6: COMPENSATION AND PAYMENT TERMS

Not to Exceed Compensation

The maximum, not-to-exceed compensation payable to Local Government under this Agreement, which includes any allowable expenses, is \$10,000.00. Agency will not pay Local Government any amount in excess of the not-to-exceed compensation of this Agreement, and will not pay for Services performed before the Effective Date or after the

expiration or termination of this Agreement. If the maximum compensation is increased by amendment of this Agreement, the amendment must be fully effective before Local Government performs Services subject to the amendment.

SECTION 7: REPRESENTATIONS AND WARRANTIES

Local Government represents and warrants to Agency that:

- 7.1 Local Government is a county duly organized and validly existing. Local Government has the power and authority to enter into and perform this Agreement;
- 7.2 The making and performance by Local Government of this Agreement (a) have been duly authorized by Local Government, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Local Government's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Local Government is party or by which Local Government may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Local Government of this Agreement, other than those that have already been obtained;
- 7.3 This Agreement has been duly executed and delivered by Local Government and constitutes a legal, valid and binding obligation of Local Government enforceable in accordance with its terms;
- 7.4 Local Government has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Local Government will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and
- 7.5 Local Government shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided by Local Government.

SECTION 8: GOVERNING LAW, CONSENT TO JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Agency or any other agency or department of the State of Oregon, or both, and Local Government that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall

be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. LOCAL GOVERNMENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 9: OWNERSHIP OF WORK PRODUCT

- 9.1** As used in this Section 9 and elsewhere in this Agreement, the following terms have the meanings set forth below:
- 9.1.1** "**Local Government Intellectual Property**" means any intellectual property owned by Local Government and developed independently from the work under this Agreement.
- 9.1.2** "**Third Party Intellectual Property**" means any intellectual property owned by parties other than Local Government or Agency.
- 9.1.3** "**Work Product**" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item that Local Government is required to deliver to Agency under this Agreement, and all intellectual property rights therein.
- 9.2** All Work Product created by Local Government under this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the exclusive property of Agency. Agency and Local Government agree that any Work Product that is an original work of authorship created by Local Government under this Agreement is a "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created by Local Government under this Agreement is not "work made for hire," Local Government hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all original Work Product created by Local Government under this Agreement, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency's reasonable request, Local Government shall execute such further documents and instruments necessary to fully vest such rights in Agency. Local Government forever waives any and all rights relating to Work Product created by Local Government under this Agreement, including without limitation, any and all rights arising under 17 U.S.C. §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

If the Work Product created by Local Government under this Agreement is a derivative work based on Local Government Intellectual Property, or is a compilation that includes Local Government Intellectual Property, Local Government hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform, and display the pre-existing

elements of the Local Government Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

If the Work Product created by Local Government under this Agreement is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Local Government shall secure on Agency's behalf and in the name of Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing element of the Third party Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

- 9.3** If Work Product is Local Government Intellectual Property, Local Government hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Local Government Intellectual Property, and to authorize others to do the same on Agency's behalf.
- 9.4** If Work Product is Third Party Intellectual Property, Local Government shall secure on Agency's behalf and in the name of Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property, and to authorize others to do the same on Agency's behalf.
- 9.5** If state or federal law requires that Agency or Local Government grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires that Agency or the United States own the intellectual property in the Work Product, then Local Government shall execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

SECTION 10: CONTRIBUTION

- 10.1** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section 10 with respect to the Third Party Claim.
- 10.2** With respect to a Third Party Claim for which Agency is jointly liable with Local Government (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of

expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Local Government in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of Local Government on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of Local Government on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

- 10.3** With respect to a Third Party Claim for which Local Government is jointly liable with Agency (or would be if joined in the Third Party Claim), Local Government shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of Local Government on the one hand and of Agency on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Local Government on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Local Government's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

SECTION 11: LOCAL GOVERNMENT DEFAULT

Local Government will be in default under this Agreement upon the occurrence of any of the following events:

- 11.1** Local Government fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement;
- 11.2** Any representation, warranty or statement made by Local Government in this Agreement or in any documents or reports relied upon by Agency to measure the delivery of services, the expenditure of funds or the performance by Local Government is untrue in any material respect when made;
- 11.3** Local Government (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to

controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or

- 11.4** A proceeding or case is commenced, without the application or consent of Local Government, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of Local Government, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of Local Government or of all or any substantial part of its assets, or (c) similar relief in respect to Local Government under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Local Government is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

SECTION 12: AGENCY DEFAULT

Agency will be in default under this Agreement if Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement.

SECTION 13: REMEDIES

In the event Local Government is in default under Section 11, and such default remains uncured 15 business days after written notice thereof to Local Government, Agency may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 16, (b) reducing or withholding payment for work or Work Product that Local Government has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Local Government to perform, at Local Government's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 14 of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

- 13.1** The Agency and Local Government shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Agency and Local Government may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. In the event Agency is in default under Section 12, and such default remains uncured 15 business days after written notice thereof to Agency, and whether or not Local Government elects to exercise its right to terminate this Agreement under Section 16.3.3, or in the event Agency terminates this Agreement under Sections 16.2.1, 16.2.2, 16.2.3, or 16.2.5, Local Government's sole monetary remedy will be (a) for work compensable at a stated rate,

a claim for unpaid invoices for work completed and accepted by Agency, for work completed and accepted by Agency within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less any claims Agency has against Local Government, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by Agency, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less previous amounts paid for the deliverable and any claims that Agency has against Local Government. In no event will Agency be liable to Local Government for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Local Government exceed the amount due to Local Government under this Section 13.2, Local Government shall promptly pay any excess to Agency.

SECTION 14: RECOVERY OF OVERPAYMENTS

The Agency and Local Government shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Agency and Local Government may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. If payments to Local Government under this Agreement, or any other agreement between Agency and Local Government, exceed the amount to which Local Government is entitled, Agency may, after notifying Local Government in writing, withhold from payments due Local Government under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

SECTION 15: LIMITATION OF LIABILITY

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 10, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN AGREEMENT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

SECTION 16: TERMINATION

- 16.1** This Agreement may be terminated at any time by mutual written consent of the Parties.
- 16.2** Agency may terminate this Agreement as follows:
 - 16.2.1** Upon 30 days advance written notice to Local Government;
 - 16.2.2** Immediately upon written notice to Local Government, if Agency fails to receive funding, or

appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Agreement;

- 16.2.3** Immediately upon written notice to Local Government, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Agreement is prohibited or Agency is prohibited from paying for such performance from the planned funding source;
 - 16.2.4** Immediately upon written notice to Local Government, if Local Government is in default under this Agreement and such default remains uncured 15 business days after written notice thereof to Local Government; or
 - 16.2.5** As otherwise expressly provided in this Agreement.
- 16.3** Local Government may terminate this Agreement as follows:
- 16.3.1** Immediately upon written notice to Agency, if Local Government fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Local Government's reasonable administrative discretion, to perform its obligations under this Agreement;
 - 16.3.2** Immediately upon written notice to Agency, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Local Government's performance under this Agreement is prohibited or Local Government is prohibited from paying for such performance from the planned funding source;
 - 16.3.3** Immediately upon written notice to Agency, if Agency is in default under this Agreement and such default remains uncured 15 business days after written notice thereof to Agency; or
 - 16.3.4** As otherwise expressly provided in this Agreement.
- 16.4** Upon receiving a notice of termination of this Agreement, Local Government will immediately cease all activities under this Agreement, unless Agency expressly directs otherwise in such notice. Upon termination, Local Government will deliver to Agency all documents, information, works-in-progress, Work Product and other property that are or would be deliverables under the Agreement. And upon Agency's reasonable request, Local Government will surrender all documents, research or objects or other tangible things needed to complete the work that was to have been performed by Local Government under this Agreement.

SECTION 17: INSURANCE

Local Government shall maintain insurance as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

SECTION 18: NONAPPROPRIATION

Agency's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.

SECTION 19: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.

SECTION 20: NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 20. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

SECTION 21: SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 8, 9, 10, 14, 15 and 21 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 22: SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 23: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

SECTION 24: COMPLIANCE WITH LAW

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law. Unless exempt, Local Government shall comply and, as indicated, cause all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to Local Government, or to the Services or deliverables, or to any combination of the foregoing.

24.1 Audits:

Local Government shall comply and, if applicable, cause subcontractors to comply with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled “Audits of States, Local Governments and Non-Profit Organizations” as implemented by 45 CFR 92.26. The Agency reserves the right to audit, at the Agency’s expense, all records pertinent to this Agreement.

24.2 Federal Terms and Conditions:

Local Government shall comply and cause all subcontractors to comply with all federal laws, including, without limitation, those set forth in Exhibit C, which is attached and incorporated by this reference.

SECTION 25: INDEPENDENT LOCAL GOVERNMENTS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Local Government is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

SECTION 26: INTENDED BENEFICIARIES

Agency and Local Government are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

SECTION 27: FORCE MAJEURE

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. Agency may terminate this Agreement upon written notice to Local Government after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 28: ASSIGNMENT AND SUCCESSORS IN INTEREST

Local Government may not assign or transfer its interest in this Agreement without the prior written consent of Agency and any attempt by Local Government to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Agency's consent to Local Government's assignment or transfer of its interest in this Agreement will not relieve Local Government of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

SECTION 29: SUBCONTRACTS

Local Government shall not, without Agency's prior written consent, enter into any subcontracts for any of the work required of Local Government under this Agreement. Agency's consent to any subcontract will not relieve Local Government of any of its duties or obligations under this Agreement.

SECTION 30: TIME IS OF THE ESSENCE

Time is of the essence in Local Government's performance of its obligations under this Agreement.

SECTION 31: MERGER, WAIVER

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SECTION 32: RECORDS MAINTENANCE AND ACCESS

Local Government shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Local Government shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Local Government, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Local Government's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Local Government, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Local Government acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Local Government shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, Local Government shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

SECTION 33: HEADINGS

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

SECTION 34: ADDITIONAL REQUIREMENTS

Local Government shall comply with the additional requirements set forth in Exhibit D, attached hereto and incorporated herein by this reference.

SECTION 35: AGREEMENT DOCUMENTS

This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, attached Exhibit A (the Statement of Work), Exhibit B (Insurance), Exhibit C (Federal Terms and Conditions), Exhibit D (Additional Requirements), Exhibit E (SMP Request for Reimbursement Form).

Signatures on next page

SECTION 36: SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

AGENCY: Clackamas County acting by and through its Health, Housing and Human Services Department, Social Services Division

Clackamas County Board of County Commissioners (BCC)

Commissioner, Chair: Tootie Smith
Commissioner: Sonya Fischer
Commissioner: Paul Savas
Commissioner: Martha Schrader
Commissioner: Mark Shull

Signing on Behalf of the Board:

By: _____

Printed Name: Tootie Smith

Title: BCC Chair

Date: _____

FEIN: 93-6002286

COBID: N/A

AGENCY: State of Oregon, Department of Consumer and Business Services, Oregon Health Insurance Marketplace, Senior Health Insurance Benefit Assistance Program

Reviewed by: _____
Chiqui Flowers

Title: Administrator

Date: _____

Executed by: _____
Nancy A. Cody

Title: Designated Procurement Officer

Date: _____

Approved Pursuant to ORS 279A.140
DEPARTMENT OF ADMINISTRATIVE SERVICES:
Not Required per OAR 125-246-0365(4)

Approved Pursuant to ORS 291.047
DEPARTMENT OF JUSTICE:
Not Required per ORS 190.430

EXHIBIT A

STATEMENT OF WORK

SECTION 1: DEFINITION OF TERMS

- ACL - Administration for Community Living
- DHS- Oregon Department of Human Services
- CFDA - Catalog of Federal Domestic Assistance
- PM's – Performance Measures
- SHIBA - Senior Health Insurance Benefit Assistance Program
- SMP - Senior Medicare Patrol
- STARS – SHIP Tracking and Report System
- SIRS – SMP Information Reporting System

SECTION 2: SERVICES

(A) Local Government Responsibilities:

1. Healthcare Fraud:

Local Government shall:

- a) Provide one-on-one counseling and assistance to beneficiaries in need of healthcare fraud education including:
 - i. Providing information to help protect beneficiaries from healthcare fraud.
 - ii. Providing information on how to detect potential healthcare fraud.
 - iii. Providing assistance with reporting potential healthcare fraud.
 - iv. Providing assistance on resolving potential billing errors.
 - v. Conducting outreach events to provide healthcare fraud education to beneficiaries, including an emphasis on reaching rural, Hispanic, and tribal individuals.

2. Outreach:

Local Government shall:

- a) Increase targeted outreach in order to make beneficiaries aware of the available help.
- b) Provide one-on-one counseling to a greater number of beneficiaries needing locally-based counseling services.

- c) Distribute counseling resources and educational materials.
- d) If needed, create more counseling locations to reach beneficiaries.
- e) Assure full accessibility of SMP services to all beneficiaries. SMP services are to be provided without discrimination on the basis of race, color, national origin, disability, age, sex, or income. Reasonable efforts must also be made to accommodate eligible beneficiaries with existing barriers that limit their access to information, e.g. language, visual, hearing or speech impairments, physical accessibility, literacy, and location.
- f) Establish a sufficient number of staff (including volunteers) necessary to provide the services of healthcare fraud education and assistance.
- g) Assure that local SMP staff (including volunteers) has no conflict of interest in providing healthcare fraud education and assistance.
- h) Utilize state and federal training program materials as part of the training program to train staff (including volunteers).
- i) Ensure all staff (including volunteers) are trained on methods for data collection and reporting for federal grant requirements.
- j) Collect and disseminate timely and accurate healthcare fraud information to staff (including volunteers).
- k) Ensure that SMP services are publicized to beneficiaries throughout the program area. Maintain contact with the community, including distributing literature and speaking at public gatherings to promote SMP.
- l) Respond to requests for information and assistance in a timely fashion (the standard is within two (2) business days).
- m) Follow established referral process for handling complex inquiries.
- n) Make available to the Agency Contract Administrator office copies of all publications developed.
- o) Collaborate with the Agency Contract Administrator office to meet established performance measures. See Section 3(A)(4) for further details.
- p) Establish or ensure the capability to send and receive e-mail and to access and download Internet published information in the provision of SMP services.
- q) Ensure effectiveness and efficiency of service delivery by allowing the Agency Contract Administrator office to monitor and assess programmatic records, reports, and activities under this Agreement. The Local Government shall provide the Agency Contract Administrator access to all reports and records relating to this Agreement, subject to the maintenance of client confidentiality required by all governing entities.
- r) Notify the Agency Contract Administrator of any changes in key personnel, contact information, or other significant administrative changes immediately upon learning of the change. This includes, but is not limited to, notification of inactive or terminated volunteers.

- s) Provide Agency Contract Administrator information regarding upcoming events on a monthly basis and not later than the 10th day of the month prior to the event.
- t) Assume responsibility for the accuracy and completeness of the information contained in all documents and reports.
- u) Retain all records pertaining to this Agreement as described in 45 Code of Federal Regulation (CFR) Section 92.42. Copies of other facsimiles of program records, such as electronic media, are acceptable substitutions for original documents.
- v) Notify the SHIBA-SMP Coordinator when SMP promotional materials need to be restocked to schedule delivery.
- w) Ensure at least one counselor has completed the SMP Complex Interactions training.
- x) Ensure all counselors have completed the SMP Foundations training within one-year of becoming a SHIBA Counselor unless a special exception has been made by SHIBA-SMP Coordinator.

3. Tracking and Recording:
Local Government shall:

- a) Track SMP volunteer hours that are not tracked on the Outreach, Media, or Individual Interaction forms in the Activity form section of the volunteer profile in SIRS.
- b) Record SMP Simple Inquiries, One-on-One Counseling and Complex Issues by completing the STARS Beneficiary Contact Form, including the send to SMP field when applicable.
- c) Complete Complex Issue electronic forms in the SMP Information and Reporting System (SIRS) for each complex issue and notify the Agency Contract Administrator upon completion.
- d) Record SMP volunteer hours by completing STARS Beneficiary and Group Outreach contact electronic forms and marking the send to SMP field.
- e) Record SMP outreach events by completing the STARS Group outreach and Media electronic forms, including marking the send to SMP field.

Local Government shall report all items a) through e) listed above using the following SHIP Tracking and Reporting System (STARS) database according to the listed schedule.

- Access is given by a registration and approval system. Agency approves access requests. Contact Agency Contract Administrator with questions or concerns.
- Links:
 - <https://stars.acl.gov/>
 - <https://smpship.acl.gov/>

SMP Activity Type	On-Line System	Due dates for entry
Simple Inquiry	STARS BCF	Monthly
One-on-One Counseling	STARS BCF	Monthly
Volunteer Hours (SIRS Activity)	SIRS Activity	Monthly
Outreach Events	STARS Group and Media Outreach forms	Monthly
Outreach materials distributed (Public and Media form)	STARS Group and Media Outreach forms	Monthly
Complex Issue	STARS BCF and SIRS SMP Complex	Upon completion of form

4. Performance Measures (PM's):

Local Government shall:

- a) Introduce SMP to its current volunteers and strive to positively train 100% of its volunteers at the SMP simple inquiry level.
- b) Train at least two (2) of its volunteers at the SMP complex inquiry level.
- c) Offer one-on-one SMP counseling by trained SMP counselors alongside its current counseling activities.
- d) Hold at least four (4) SMP outreach events per county per year with at least two (2) of these events per county targeting rural, Hispanic, and tribal individuals.

- e) Regularly ensure, as identified in this Agreement, that all SMP activity (one-on-one counseling and outreach events) is accurately recorded and reported to the State SHIBA-SMP Coordinator using the procedures outlined in t-w above.
- f) Be able to show continuous progression in the reach of its SMP activities (through one-on-one counseling/assistance and group outreach events).

5. Reporting:

Local Government shall:

- a) Train staff and volunteers performing SMP activities to record SMP work through the STARS Beneficiary Contact form and STARS Group and Media Outreach forms, to properly record all SMP activities.
 - 1. Include quarterly progress reports (Sept. 15, Dec. 15, Mar. 15, Jun. 15) using Exhibit E – SMP Request for Reimbursement Form.
- b) Reports will include an update on successes and challenges in implementing the project.

SECTION 3: PAYMENT TERMS

(A) Compensation

- 1. Agency agrees to pay Local Government a not-to-exceed amount of \$10,000.00 for performance of the work set forth in Section 2 for the period of June 01, 2021 through May 31, 2022. Funding for future years is dependent on Agency receiving grant awards from the Administration for Community Living (ACL) and the Oregon Department of Human Services (DHS), Aging and People with Disabilities, Client Services Supports Unit

(B) Invoices

- 1. Local Government shall submit detailed invoices quarterly for Services provided. Invoices must be submitted using attached Exhibit E – SMP Request for Reimbursement Form.
- 2. Invoices must include the total amount invoiced to date by Local Government prior to the current invoice.
- 3. Invoice(s) shall be submitted to the Agency Authorized Representative by email.
- 4. Agency shall pay Local Government following Agency's acceptance, review and approval of the invoice(s) submitted.

EXHIBIT B
INSURANCE REQUIREMENTS

No insurance required

EXHIBIT C

FEDERAL TERMS AND CONDITIONS

General Applicability and Compliance. Unless exempt under 45 Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, Agency shall comply and, as indicated, cause all Local Governments to comply with the following federal requirements to the extent that they are applicable to this Agreement, to Agency, or to the grant activities, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

1. MISCELLANEOUS FEDERAL PROVISIONS.

Agency shall comply and require all Local Governments to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of grant activities. Without limiting the generality of the foregoing, Agency expressly agrees to comply and require all Local Governments to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of Agency Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide grant activities in violation of 42 U.S.C. 14402

2. EQUAL EMPLOYMENT OPPORTUNITY.

If this Agreement, including amendments, is for more than \$10,000, then Agency shall comply and require all Local Governments to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

3. CLEAN AIR, CLEAN WATER, EPA REGULATIONS.

If this Agreement, including amendments, exceeds \$100,000 then Agency shall comply and require all Local Governments to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to Agency, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Agency

shall include and require all Local Governments to include in all Agreements with Local Governments receiving more than \$100,000, language requiring the Local Government to comply with the federal laws identified in this Section.

4. ENERGY EFFICIENCY.

Agency shall comply and require all Local Governments to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).

5. TRUTH IN LOBBYING.

By signing this Agreement, the Agency certifies, to the best of the Agency's knowledge and belief that:

- a. No federal appropriated funds have been paid or will be paid, by or on behalf of Agency, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Agency shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- c. The Agency shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Local Governments and Local Governments shall certify and disclose accordingly.
- d. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- e. No part of any federal funds paid to Agency under this Agreement shall be used other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

- f. No part of any federal funds paid to Agency under this Agreement shall be used to pay the salary or expenses of any grant or contract Agency, or agent acting for such Agency, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- g. The prohibitions in subsections (e) and (f) of this Section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- h. No part of any federal funds paid to Agency under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

6. RESOURCE CONSERVATION AND RECOVERY.

Agency shall comply and require all Local Governments to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

7. AUDITS.

- i. Agency shall comply, and require all Local Governments to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
- j. If Agency expends \$500,000 or more in Federal funds (from all sources) in its fiscal year beginning prior to December 26, 2014, Agency shall have a single organization-wide audit conducted in accordance with the Single Audit Act. If Agency expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, Agency shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to Agency within 30 days of completion. If Agency expends less than \$500,000 in Federal funds in a fiscal year beginning prior to December 26, 2014, or less than \$750,000 in a fiscal year beginning on or after that date, Agency is exempt from Federal audit

requirements for that year. Records must be available as provided in Exhibit B, "Records Maintenance, Access".

8. DEBARMENT AND SUSPENSION.

Agency shall not permit any person or entity to be a Local Government if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension" (See 2 CFR Part 180). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and Local Governments declared ineligible under statutory authority other than Executive Order No. 12549. Local Governments with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

9. DRUG-FREE WORKPLACE.

Agency shall comply and cause all Local Governments to comply with the following provisions to maintain a drug-free workplace: (i) Agency certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Agency's workplace or while providing services to Agency Clients. Agency's notice shall specify the actions that will be taken by Agency against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Agency's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; (v) Notify AGENCY within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by 41 U.S.C. 8104; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any Local Government to comply with subparagraphs (i) through (vii) above; (ix) Neither Agency, or any of Agency's employees, officers, agents or Local Governments may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Agency or Agency's employee, officer, agent or Local Government has used a controlled substance, prescription or non-prescription medication that impairs the Agency or Agency's employee, officer, agent or Local Government's performance of essential job function or creates a direct threat to Agency Clients or others. Examples of abnormal behavior include, but are not

limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of the Agreement.

10. PRO-CHILDREN ACT.

Agency shall comply and require all Local Governments to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. 6081 et. seq.).

11. MEDICAID SERVICES.

Agency shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. 1396 et. seq., including without limitation:

- k. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
- l. Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
- m. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 Subpart I.
- n. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. Agency shall acknowledge Agency's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
- o. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, Local Governments and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. 1396a(a)(68).

12. AGENCY-BASED VOTER REGISTRATION.

If applicable, Agency shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.

13. DISCLOSURE.

- p. 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any Local Government in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any Local Government in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity
- q. 42 CFR Part 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law
- r. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or Title XXI program in the last 10 years.
- s. Local Government shall make the disclosures required by this Section to Agency. Agency reserves the right to take such action required by law, or where Agency has discretion, it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

14. FEDERAL INTELLECTUAL PROPERTY RIGHTS NOTICE.

The federal funding agency, as the awarding agency of the funds used, at least in part, for the activities performed under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms “grant” and “award” refer to funding issued by the federal funding agency to the State of Oregon. The Agency agrees that it has been provided the following notice:

- a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work, and to authorize others to do so, for Federal Government purposes with respect to:
- (1) The copyright in any work developed under a grant, subgrant or Agreement under a grant or subgrant; and

(2) Any rights of copyright to which a grantee, subgrantee or a Local Government purchases ownership with grant support.

- b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."
- c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or contract under a grant or subgrant.

15. WHISTLEBLOWER PROTECTIONS.

This Agreement includes the requirements of the "Pilot Program for Enhancement of Local Government Employee Whistleblower Protections". See, 48 CFR 3.908 of the National Defense Authorization Act (NDAA). By reference, these requirements are a term and condition of the Agreement.

16. DOMA: IMPLEMENTATION OF UNITED STATES V. WINDSOR AND FEDERAL RECOGNITION OF SAME-SEX SPOUSES/MARRIAGES:

United States v. Windsor, 133 S.Ct. 2675 (June 26, 2013); section 3 of the Defense of Marriage Act, codified at 1 USC § 7. All grantees are expected to recognize any same-sex marriage legally entered into in a U.S. jurisdiction that recognizes their marriage, including one of the 50 states, the District of Columbia, or a U.S. territory, or in a foreign country so long as that marriage would also be recognized by a U.S. jurisdiction. This applies regardless of whether or not the couple resides in a jurisdiction that recognizes same-sex marriage. However, this does not apply to registered domestic partnerships, civil unions or similar formal relationships recognized under the law of the jurisdiction of celebration as something other than a marriage. Accordingly, recipients must review and revise, as needed, any policies and procedures which interpret or apply Federal statutory or regulatory references to such terms as "marriage," "spouse," "family," "household member" or similar references to familiar relationships to reflect inclusion of same-sex spouse and marriages. Any similar familial terminology references in HHS statutes, regulations, or policy transmittals will be interpreted to include same-sex spouses and marriages legally entered into as described herein.

17. TRAFFICKING VICTIMS PROTECTION ACT.

Agency shall comply and require all Local Governments to comply with Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104).

18. THE DEPARTMENT OF DEFENSE AND LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS ACT, 2019 AND CONTINUING APPROPRIATIONS ACT, 2019.

Although consistent with the HHS GPS, any applicable statutory or regulatory requirements, including 45 CFR Part 75, directly apply to this Agreement apart from any coverage in the HHS GPS. Also, the general provisions from "The Department of Defense and Labor, Health and

Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019,” Pub. L. No 115-245, signed into law on September 28, 2018.

19. FEDERAL FINANCIAL ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA).

The Federal Financial Accountability and Transparency Act (FFATA) requires data entry at the FFATA Subaward Reporting System located at <http://www.FSRS.gov> for all sub-awards and sub-contracts issued for \$25,000 or more as well as addressing executive compensation for both grantee and sub-award organizations.

20. SECURITY AND PRIVACY.

Should the collection of information require the use of an information technology system (2 CFR 200.58), the grant recipient and subrecipient(s) will be expected to adhere to the NIST Cybersecurity Framework to help ensure the security of any system used or developed by the grant recipient or subrecipient(s). In particular, if the data to be collected includes Personally Identifiable Information (PII, 2CFR 200.79) or Protected PII (2 CFR 200.82), the grant recipient and subrecipient(s) must apply the appropriate security controls required to protect the privacy and security of the collect PII and/or Protected PII.

EXHIBIT D

ADDITIONAL REQUIREMENTS

CONFIDENTIAL INFORMATION:

Local Government shall comply with ORS 646A and require subcontractors or subgrantees to comply with the information security requirements imposed under this section. "Information Asset" means all confidential information in any form (e.g., written, verbal, oral or electronic) which Agency determines requires security measures, including confidential information created by Agency, gathered by Agency or stored by Agency for external parties.

All requirements imposed on Local Government under this section also apply to its officers, employees, agents and subcontractors that have access to any SHIBA Information Asset, and Local Government shall include these requirements in any subcontract that may provide such access by a subcontract Government, its officers, employees or agents to any SHIBA computer system or other SHIBA Information Asset.

Local Government shall:

- a. Cooperate with Agency in identifying Information Assets that will be utilized in the performance of Services or for the delivery of Goods and applicable security measures that will be undertaken to protect the Information Assets, and provide updated information to Agency with fourteen (14) calendar days of the date such information changes for any reason.
- b. Implement security measures that reasonably and appropriately provide administrative, physical and technical safeguards that protect the confidentiality, integrity and availability of the Information Assets that it creates, receives, maintains or transmits on behalf of Agency. Local Government security measures must be documented in writing and be available for review by Agency request. Agency's review of the reasonableness of security measures, as well as Local Government's compliance with Agency's assigned access control or security requirements, will take into account Local Government's physical, administrative and technical capabilities related to security measures and the potential risk of unauthorized use or disclosure of Information Assets by Local Government, its officers, employees, agents or subcontract Governments.
- c. Prevent any unauthorized access to or disclosure of Agency's information systems and information assets. Take necessary actions to comply with Agency's determinations of the level of access that may be granted, as well as changes in levels of access, or suspension or termination of access as determined by Agency.
- d. Keep any Agency assigned access control requirements such as identification of authorized user(s) and access-control information in a secure location until access is terminated; monitor and securely maintain access by Local Government and its agents or subcontract Governments in accordance with security requirements or access controls assigned by Agency; and make available to Agency, upon request, all information about Local Government's use or application of Agency access-controlled computer systems or Information Assets.
- e. Report to Agency any privacy or security incidents by Local Government, its officers, employees or subcontract Governments that compromise, damage or cause a loss of protection

to Agency Information Assets. Local Government shall report in the following manner:

- 1) Report to Agency in writing within five (5) business days of the date on which Local Government becomes aware of such incident; and
- 2) Provide Agency the results of the incident assessment findings and resolution strategies. Local Government shall comply with Agency requests for corrective action concerning a privacy or security incident, and with laws requiring mitigation of harm caused by the unauthorized use or disclosure of confidential information, if any. If Agency determines that Local Government's security measures or actions required under this section are inadequate to address the security requirements of Agency, Agency will notify Local Government. Agency and Local Government may meet to discuss appropriate security measures or actions. If security measures or corrective actions acceptable to Agency cannot be agreed upon, Agency may take such actions as it determines appropriate under the circumstances. Actions may include, but are not limited to restricting access to computer systems or Information Assets, or Agency amending or terminating the Agreement.
- 3) Agency may request additional information from Local Government related to security measures, and may change, suspend or terminate access to or use of an Agency computer system or Information Assets by Local Government, its officers, employees, agents or subcontract Governments.
- 4) Wrongful use of Agency computer systems, wrongful use or disclosure of Information Assets by Local Government, its officers, employees, agents or subcontractors may cause the immediate suspension or revocation of any access granted through this Agreement, in the sole discretion of Agency. Agency may also pursue other legal remedies provided under the law.

Exhibit E SMP REQUEST FOR REIMBURSEMENT FORM

Quarterly Date Range: _____

Sponsor Name: _____
 Counties Served: _____
 Agreement Number: _____ (SMP grant contract no.)
 Amount Requested: \$ _____

Required Information

SHIBA Sponsor Payee Name: _____
 Street Address/PO Box _____
 City, ST, Zip: _____
 Federal Employer Identification Number: _____

1) Summary of Expenditures:

Provide a detail of expenditures for the reimbursement period.

Object Class Category	Federal Funds	Expense Justification Details
Personnel		
Fringe Benefits		
Travel		For mileage incl. (total travelers, total miles, rate per mile)
Equipment		
Supplies		
Contractual		
Construction		
Other		
Indirect		
TOTAL	\$ _____	

Submitter's Signature _____ **Date** _____

2) Highlights of your organization's accomplishments and lessons learned. (highlights should correlate with expenditure details above and also relate to the Sub-grant contract's Key Objectives and Statement of Work (attach separate page).

Please sign, scan and email your completed reimbursement request form to Lisa Emerson at lisa.emerson@oregon.gov and cc dawn.shaw@oregon.gov

Financial Assistance Application Lifecycle Form

Use this form to track your potential grant from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

** CONCEPTION **

Note: The processes outlined in this form are not applicable to disaster recovery grants.

Section I: Funding Opportunity Information - To be completed by Requester

Lead Department:

H3S - Social Services

Application for: Subrecipient Assistance Direct Assistance

Grant Renewal? Yes No

If renewal, complete sections 1, 2, & 4 only

If Disaster or Emergency Relief Funding, EOC will need to approve prior to being sent to the BCC

Name of Funding Opportunity:

Senior Health Insurance Benefits Assistance (SHIBA) - Senior Medicare Patrol (SMP)

Funding Source: Federal State Local

Requestor Information (Name of staff person initiating form):

Kristina Babcock

Requestor Contact Information:

kbabcock@clackamas.us

Department Fiscal Representative:

Jennifer Snook

Program Name or Number (please specify):

242 4345 05189 331067

Brief Description of Project:

The State of Oregon agrees to pay Clackamas County not to exceed amount of \$10,000.00. Clackamas County will be part of Oregon's effort to strengthen its capability to provide all Medicare eligible individuals, family members, and caregivers information, counseling and assistance on health insurance matters. The Senior Medicare Patrol (SMP) program will help provide outreach, education, and individual counseling regarding Medicare/Medicaid fraud, waste, and abuse.

Name of Funding Agency:

Administration for Community Living (ACL)

Agency's Web Address for funding agency Guidelines and Contact Information:

<https://acl.gov/>

OR

Application Packet Attached: Yes No

Completed By:

Jessica Diridoni

04/07/2021

Date

**** NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE ****

Section II: Funding Opportunity Information - To be completed by Department Fiscal Rep

Competitive Application

Non-Competing Application

Other

CFDA(s), if applicable:

Funding Agency Award Notification Date:

Announcement Date:

Announcement/Opportunity #:

Grant Category/Title:

SHIBA - SMP

Max Award Value:

\$10,000

Allows Indirect/Rate:

Match Requirement:

Application Deadline:

Other Deadlines:

Return to State ASAP

Award Start Date:

06/01/2021

Other Deadline Description:

Award End Date:

05/31/2022

Completed By:

Kristina Babcock

Program Income Requirement:

None - medicare eligible individuals

Pre-Application Meeting Schedule:

Section III: Funding Opportunity Information - To be completed at Pre-Application Meeting by Dept Program and Fiscal Staff

Mission/Purpose:

1. How does the grant/funding opportunity support the Department and/or Division's Mission/Purpose/Goals?

2. What, if any, are the community partners who might be better suited to perform this work?

3. What are the objectives of this funding opportunity? How will we meet these objectives?

4. Does the grant/financial assistance fund an existing program? If yes, which program? If no, what is the purpose of the program?

Organizational Capacity:

1. Does the organization have adequate and qualified staff? If no, can staff be hired within the grant/financial assistance funding opportunity timeframe?

2. Are there partnership efforts required? If yes, who are we partnering with and what are their roles and responsibilities?

3. If this is a pilot project, what is the plan for sunseting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?

4. If funded, would this grant/financial assistance create a new program, does the department intend for the program to continue after initial funding is exhausted? If yes, how will the department ensure funding (e.g. request new funding during the budget process, supplanted by a different program, etc.)?

Collaboration

1. List County departments that will collaborate on this award, if any.

Reporting Requirements

1. What are the program reporting requirements for this grant/funding opportunity?

2. How will performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

3. What are the fiscal reporting requirements for this funding?

Fiscal

1. Will we realize more benefit than this financial assistance will cost to administer?

2. Are other revenue sources required? Have they already been secured?

3. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, Local Grant, etc.)?

4. Does this grant/financial assistance cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

Program Approval:

Lois Orner

4/12/21

Lois Orner

Digitally signed by Lois Orner
Date: 2021.04.12 07:58:19 -07'00'

Name (Typed/Printed)

Date

Signature

**** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR ****

****ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY, COUNTY FINANCE OR ADMIN WILL SIGN.****

Section IV: Approvals

DIVISION DIRECTOR (or designee, if applicable)		
Brenda Durbin	4/9/21	Brenda Durbin <small>Digitally signed by Brenda Durbin Date: 2021.04.09 12:47:04 -07'00'</small>
Name (Typed/Printed)	Date	Signature

DEPARTMENT DIRECTOR (or designee, if applicable)		
Mary Rumbaugh	4/12/2021	Mary Rumbaugh <small>Digitally signed by Mary Rumbaugh Date: 2021.04.12 16:25:06 -07'00'</small>
Name (Typed/Printed)	Date	Signature

FINANCE ADMINISTRATION		
Elizabeth Comfort	4.13.2021	Elizabeth Comfort <small>Digitally signed by Elizabeth Comfort Date: 2021.04.13 08:48:15 -07'00'</small>
Name (Typed/Printed)	Date	Signature

EOC COMMAND APPROVAL (DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY)		
Name (Typed/Printed)	Date	Signature

Section V: Board of County Commissioners/County Administration

(Required for all grant applications. If your grant is awarded, all grant awards must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)

For applications less than \$150,000:

COUNTY ADMINISTRATOR	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>
Name (Typed/Printed)	Date	Signature

For applications greater than \$150,000 or which otherwise require BCC approval:

BCC Agenda item #: Date:

OR

Policy Session Date:

County Administration Attestation

County Administration: re-route to department contact when fully approved.
Department: keep original with your grant file.