



State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

TOOELE COUNTY CORPORATION
CONTRACT # 11-07-03

Revision Date: April 2010

DEPARTMENT OF HUMAN SERVICES

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Log No. 26274

Contract No. _____

DHS CONTRACT FOR MEDICAID AGING WAIVER PROGRAM

CONTRACTING PARTIES: This Contract is between the Utah Department of Human Services ("DHS"), Division of Aging and Adult Services, 195 North 1950 West, Salt Lake City, Utah 84116 (referred to in this Contract as "DHS/DAAS")

AND

Name: Tooele County Corporation
Tooele County Aging and Adult Services
Address: 47 South Main Street
Tooele, Utah 84074-2194

A Local Area Agency on Aging (referred to in this Contract as the "Local Agency").

NOTICES AND DOCUMENTS SHALL BE SUBMITTED TO:

	LOCAL AGENCY	DHS
Name	Josh Maher	Clark Staley
Title	Director	Financial Analyst
Telephone	(435) 843-4125	(801) 538-3914
Email	jmaher@co.tooele.ut.us	COSTALEY@utah.gov
Address	59 East Vine Street Tooele, Utah 84074	195 North 1950 West Salt Lake City, Utah 84116

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PART I: GENERAL PROVISIONS

SECTION A: CONTRACT DESCRIPTION AND SPECIFICATIONS

1. **PURPOSE AND SCOPE OF CONTRACT:** To provide funding and oversight for In-Home Services in accordance with the requirements listed in the *State Implementation Plan* for the Home and Community-Based Medicaid Aging Waiver Program ("Waiver"). Waiver is a support service for Medicaid eligible clients who meet Waiver criteria for requiring the level of care provided by a nursing facility but who choose to remain in their own homes with the assistance of in-home services provided under the Waiver. The Local Agency shall provide Waiver services to qualified applicants in its service area, and represents that it has the financial, managerial and institutional capacity to fully comply with the requirements of this Contract.
2. **CONTRACT PERIOD:** This Contract is effective **July 1, 2011** and terminates **June 30, 2012**, unless terminated sooner in accordance with the terms and conditions of this Contract.
3. **TYPE OF CONTRACT:**

"Cost Reimbursement" Contract. This Contract is a cost reimbursement contract. Two types of services are required under this Contract, *administrative services* and *client services*. Reimbursement for the *administrative services* required under this Contract is based on supporting documentation from the Local Agency showing that the service costs were necessary, reasonable and actually incurred.

Reimbursement for the *client services* authorized under this Contract is based on supporting documentation showing that the service costs were necessary, reasonable, actually incurred by either the Local Agency or an appropriate Medicaid Aging Waiver service provider ("service provider"), and did not exceed the current maximum allowable rate established for the particular type of service provided published by the Utah State Department of Health, Division of Medicaid and Health Financing, Long Term Care Bureau.
4. **TYPE OF CONTRACTOR:** The Local Agency is a "Subrecipient" with respect to the "Administrative Service" funds paid pursuant to this contract. A subrecipient is a non-federal governmental entity or a non-profit or for-profit organization that develops and operates its own program of services for eligible clients, and that receives federal and/or state funds from DHS/DAAS or another entity that serves as a "recipient" and "pass-through entity" for such funding. The Local Agency shall comply with the financial record-keeping and reporting requirements that apply to federally-funded subrecipients.
5. **FUNDING SOURCES:** As required by OMB Circular A-133, Subpart D, Section 400 (d), the funds for this Contract are provided as follows:

Administrative Services. For purposes of federal reporting, the Local Agency shall report the federal portion (noted with an asterisk) according to the following rates:

CATEGORY	CFDA OR STATE COMPLIANCE #	FEDERAL OR STATE (ORIGINAL) FUNDING SOURCE	ESTIMATED PERCENTAGE
a. RN Waiver activities requiring the level of expertise of a currently licensed RN.	93.778	Title XIX Medicaid Waiver	*75%
		State General Funds	25%
b. Time spent in reconciliation of Medicaid Management Information System (MMIS) billings.	93.778	Title XIX Medicaid Waiver	*75%
		State General Funds	25%
c. All other time spent in Waiver administrative service activities.	93.778	Title XIX Medicaid Waiver	*50%
		State General Funds	50%

6. **REDUCTION OF FUNDS**

Subject to federal requirements, if an order by the Legislature or the Governor, or a federal or state law reduces the amount of funding to DHS/DAAS, or if the Executive Director of DHS decides to reduce the payments under this Contract, DHS/DAAS may terminate this Contract or proportionately reduce the services required by this Contract and the amounts to be paid by DHS/DAAS to the Local Agency for such services. DHS/DAAS shall reimburse the Local Agency in accordance with the original provisions of this Contract for all services performed before the effective date of the reduction or termination.

7. **COMPLIANCE WITH PROCUREMENT REQUIREMENTS:** The Local Agency is a governmental entity and as such is exempt from procurement requirements.

8. **DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:** This Contract incorporates all documents specified in this Contract and its attachments including:

- a. The Utah Department of Health, Division of Medicaid and Health Finance, Long Term Care Bureau, Aging Waiver *State Implementation Plan*;
- b. The Utah Department of Health, Division of Medicaid and Health Finance, *Utah Medicaid Provider Manual for Home and Community Based Services for Individuals 65 or Older*; and
- c. All statutes, regulations, and governmental policies that apply to this Contract

9. **NO IMPOSITION OF FEES:** The Local Agency shall not charge clients for any services provided pursuant to this Contract.

SECTION B: LOCAL AGENCY'S LEGAL STATUS AND INDEMNIFICATION RESPONSIBILITIES

1. **LOCAL AGENCY IS AN INDEPENDENT CONTRACTOR:** The Local Agency is an independent contractor, and has no authorization, express or implied, to bind DHS/DAAS or any state agency to any agreements, settlements, or liability. Nothing in this Contract shall be construed to limit the Local Agency's authority to bind itself to agreements, settlements or liability, as long as such agreements, settlements or liability affect only itself and not DHS/DAAS. The Local Agency is not authorized to act as an agent for DHS/DAAS, except as expressly provided in this Contract. Persons employed by DHS/DAAS and acting under direction of DHS/DAAS shall not be deemed to be employees or agents of the Local Agency. Persons employed by the Local Agency and acting under the direction of the Local Agency shall not be deemed to be employees or agents of DHS/DAAS except as expressly provided in this contract. As an independent contractor, the Local Agency is responsible for its own operations and for providing the office space, supplies, equipment, tools, and other supports necessary to provide the services covered by this contract unless specifically stated otherwise in the contract. The reimbursement paid to the Local Agency under this Contract shall be the Local Agency's total compensation from DHS/DAAS for the services provided pursuant to this Contract and the Local Agency is responsible for the payment of any and all tax liabilities incurred as a result of the compensation received.
2. **PROTECTION AGAINST LIABILITY:**

Consistent with the terms of the Governmental Immunity Act (Title 63G, Chapter 7 of the Utah Code), the Local Agency and DHS/DAAS are each responsible and liable for any wrongful or negligent acts which that party itself commits or which are committed by its agents, officials, or employees. Neither party waives any defenses otherwise available under the Governmental Immunity Act.
3. **EMERGENCY MANAGEMENT AND BUSINESS CONTINUITY PLAN:** The Local Agency shall use qualified personnel to perform all services in conformity with the requirements of this Contract and generally recognized standards. **The Local Agency's performance shall not be excused by force majeure.** The Local Agency represents that it has identified the critical functions or processes of its business operations essential for providing the services required in this Contract. The Local Agency also represents that it has developed an emergency management and business continuity plan (plan) that will allow the Local Agency to continue to operate those critical functions or processes during or following an emergency. The Local Agency further represents that its emergency management and business continuity plan includes: 1. Communications (with Local Agency staff, the appropriate government agency, clients and clients' families); and, 2. Recovery and maintenance of client records. The Local Agency also represents that it provides at least annual training for its staff on its emergency management and business continuity plan and it

acknowledges that DHS may rely upon this and the other representations of the Local Agency in this paragraph.

The Local Agency shall evaluate its plan at least annually, and shall modify the plan as appropriate. The Local Agency shall provide DHS with a copy of its current plan upon request. Any modifications to the Local Authority's plan shall be reported to DHS/DAAS within 15 days of the time the modifications are made. At that time, the Local Authority shall also provide DHS/DAAS with a copy of the plan incorporating the identified modifications. Failure to maintain an adequate plan pursuant to this part shall constitute grounds for corrective action and/or termination of this Contract.

SECTION C: LOCAL AGENCY'S COMPLIANCE WITH APPLICABLE LAWS

1. **COMPLIANCE WITH APPLICABLE LAWS.** The Local Agency shall comply with all applicable laws. The term "applicable laws" refers to all federal statutes and regulations, executive orders, state statutes and regulations that apply to the Local Agency's activities or that impose restrictions on the Local Agency's use of federal or state funding or grants. It is the Local Agency's responsibility to obtain appropriate advice about the scope and applicability of the laws governing its activities.
2. **RESTRICTIONS ON CONFLICTS OF INTEREST:**
 - a. **Purpose and Overview.** The purpose of this Section is to assure that the services provided pursuant to this Contract afford DHS/DAAS a commercially reasonable level of quality and cost. These provisions prohibit Local Agencies and anyone acting on their behalf from using their employment with the State of Utah or their relationship with others, including potential subcontractors, to enter into any transaction or arrangement that is improper or gives the appearance of being improper because of that person's State employment or relationship with a third party.
 - b. **Definitions**
 - (1) **"Business Entity"** includes a sole proprietorship, partnership, limited liability company ("LLC"), association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.
 - (2) **"Conflict of Interest"** means any situation where the Local Agency or any Representative of the Local Agency has economic, social, political, familial, or other interests which interfere with, or have the potential to interfere with, the exercise of that person's duties, responsibilities, or judgment on behalf of the Local Agency or DHS/DAAS in connection with this Contract, or which involve conflicting loyalties to the Local Agency and to another interest. "Conflict of Interest" also includes any violation of the Ethics Acts.
 - (3) **"Disclosure Statement"** means a written statement provided to DHS/DAAS by the Local Agency about their Conflicts of Interest, including the information listed in Part I, Section C, Paragraph 2(f)(2) below.

- (4) **"Dual Employment"** means employment by more than one of the following entities: the State of Utah, the Local Agency, and another employer.
- (5) **"Local Agency"** means the local governmental entity contracting with DHS/DAAS, and includes all "Representatives" of that entity.
- (6) **"Related Party"** means:
- (a) any person related to the Local Agency by blood or marriage, which, for purposes of this Contract, includes parents, spouses, children, siblings, grandparents, grandchildren, uncles, aunts, nephews, nieces, first cousins, and in-laws; and
 - (b) all business associates of the Local Agency:
 - (i) who are partners, directors, or officers in the same business entity as the Local Agency;
 - (ii) who have authority to make decisions or establish policies in the same business entity as the Local Agency; or
 - (iii) who directly or indirectly own 10% or more in the same business entity as the Local Agency.
- (7) **"Related-Party Transaction"** means payments made by the Local Agency to a Related Party in any manner or description (including those relating to administrative costs, capital expenditures, program expenditures, and payments for goods, services, facilities, leases, salaries, wages, professional fees or similar expenses) in connection with this Contract. "Related-Party Transaction" also means arrangements made between the Local Agency and a Related Party, whether or not payments are involved, which affect the performance of this Contract in any manner.
- (8) **"Representative"** means any person or entity acting on behalf of the Local Agency, and includes all employees, owners, partners, directors, officers, board members, and agents of the Local Agency, as well as any other individual or group of individuals with authority to establish policies or make decisions for the Local Agency. "Volunteers" are not "Representatives" and are not required to be included in the Local Agency's Disclosure Statement, unless they are board members or officers, or are substantially involved in the Local Agency's decision-making processes, or unless they have direct, unsupervised contact with DHS/DAAS clients.
- (9) **"Volunteer"** means a person who donates services to the Local Agency without pay or other compensation, except for expenses incurred (such as meals and other travel costs).

- c. **Restrictions on Conflicts of Interest.** Transactions involving Conflicts of Interest are prohibited to the extent that they are in any way the result of undue influence, or if they have the potential to result in increased costs, decreased performance, the appearance of impropriety, or any other disadvantage to DHS/DAAS. Any Conflict of Interest that influences DHS/DAAS' decision to enter into this Contract with the Local Agency or that influences any transactions undertaken by the Local Agency pursuant to this Contract is a prohibited Conflict of Interest. Conflicts of Interest can occur in one of three ways:
- (1) **Dual Employment.** Conflicts of Interest involving Dual Employment can occur when a Local Agency's Representative is also employed by the State of Utah or by another employer.
 - (2) **Related-Party Transactions.** Conflicts of Interest involving Related-Party Transactions occur when the Local Agency makes payments to a Related Party in any manner or description using money obtained from DHS/DAAS through this Contract. Conflicts of Interest can also occur when arrangements are made between the Local Agency and a Related Party, whether or not payments are involved, which affect the performance of this Contract in any way.
 - (3) **Independent Judgment Impaired.** Conflicts of Interest involving impaired judgment occur when the Local Agency's Representative participates in any transaction on the Local Agency's behalf and has a significant relationship or shared interest with another party to the transaction, and this relationship or shared interest is not covered by the Related-Party Transaction restrictions, but could affect the Representative's ability or willingness to exercise independent judgment for the benefit of the Local Agency.
- d. **Dual Employment and Local Agency's Compliance with the Ethics Acts.** While dual employment is not prohibited, the Local Agency shall take measures to ensure that the Local Agency's Representatives do not use their dual employment to influence either DHS/DAAS' decision to enter into this Contract or to influence any transactions undertaken by the Local Agency in furtherance of this Contract.

The Local Agency shall comply at all times with the applicable provisions of the Utah Public Officers' and Employees' Ethics Act (Title 67, Chapter 16 of the Utah Code) and the Municipal Officers' and Employees' Ethics Act (Title 10, Chapter 3, Part 13 of the Utah Code) (referred to collectively as the "Ethics Acts"). The Ethics Acts prohibit public officers and public employees from having personal involvement in any Business Entity if that involvement creates a substantial conflict between their private interests and their public duties. The parties agree, however, that except as otherwise expressly provided in the "Related-Party Transaction" and "Independent Judgment Impaired" provisions of this Contract, nothing in this Contract is intended to expand or modify the Local Agency's obligations under the Ethics Acts.

- e. **Local Agency Policies and Internal Review:** The Local Agency shall familiarize its Representatives with:

- (1) the Conflict of Interest concept and the certification/disclosure requirements of this Contract; and
- (2) the applicable provisions of the Ethics Acts.

The Local Agency shall implement a written policy that requires its Representatives to disclose to the Local Agency all existing, potential, and contemplated Conflicts of Interest. The Local Agency shall also regularly review any disclosures and its own operations to reasonably assure DHS/DAAS that the Local Agency avoids prohibited Conflicts of Interest.

f. **Disclosing Conflicts of Interest to DHS:**

- (1) **Requirements for Governmental Entities such as the Local Agency.** Before entering into this Contract, the Local Agency shall comply with the following requirements:
 - (a) **Certification of Compliance.** The Local Agency shall submit to DHS/DAAS a written certification, in which they certify that they maintain a written policy as required by the Conflict of Interest provision of this Contract. The certification shall also provide that the Local Agency monitor for compliance with the Conflict of Interest provisions of this Contract and that it can reasonably assure DHS/DAAS that Representatives with a potential Conflict of Interest do not:
 - (i) make or influence decisions or set policies that affect this Contract;
 - (ii) monitor the performance of this Contract; or
 - (iii) become involved in or otherwise benefit from the performance of this Contract.

A form entitled "Conflict of Interest Certification" is available from DHS/DAAS.

- (b) **Disclosure of Substantial Conflicts of Interest:** Before entering into this Contract, the Local Agency shall disclose to DHS/DAAS any Conflict of Interest that relates to this Contract or the services provided under this Contract if the Conflict of Interest involves any payment or transaction or salary worth \$2,000 or more in a single state fiscal year. For all such Conflicts of Interest, the Local Agency shall submit a Disclosure Statement which includes all of the information required by Part I, Section C, Paragraph 2 (f)(2) below. The Local Agency shall also comply with the requirements of Part I, Section C, Paragraph 2 (f)(3) regarding the continuing duty to disclose these Conflicts of Interest.
- (2) **Continuing Duty to Disclose Conflicts of Interest.** The Local Agency has a

continuing duty to immediately send DHS/DAAS an updated Disclosure Statement if, at any time during the term of this Contract between the Local Agency and DHS/DAAS, the Local Agency contemplates any transaction involving a Conflict of Interest, or hires or affiliates with any individual with a potential Conflict of Interest, or discovers any existing Conflict of Interest.

g. **DHS/DAAS' Response to Disclosure Statements.**

(1) **Initial Approval, Disapproval or Remedial Action Requirement.**

DHS/DAAS shall submit a written response to the Local Agency within fourteen days after receiving a Disclosure Statement. The response shall acknowledge receipt of the Disclosure Statement, and shall advise the Local Agency that:

- (a) DHS/DAAS does not require any additional information or remedial action before executing or continuing this Contract; or
- (b) DHS/DAAS requires additional information or disclosures or requires the Local Agency to undertake specific remedial action before executing or continuing this Contract; or
- (c) DHS/DAAS disapproves certain identified transactions due to one or more prohibited Conflicts of Interest and unless the Local Agency discontinues those transactions, DHS/DAAS will declare this Contract breached and terminated.

(2) **DHS/DAAS' Right to Continue Its Investigation and Revise Its Response.** If

DHS/DAAS fails to respond to the Local Agency within fourteen days of receiving the Disclosure Statement, the disclosing party may proceed as if no additional information or remedial action were required. The parties expressly agree, however, that regardless of any action taken pursuant to the response provisions above, DHS/DAAS retains the right to do any of the following if, at any time during the term of this Contract, DHS/DAAS determines that a Conflict of Interest problem exists:

- (a) Continue to investigate any potential Conflict of Interest;
- (b) Require further information from the Local Agency;
- (c) Require specific remedial action; or
- (d) Disapprove identified transactions.

h. **Monitoring Compliance with the Conflict of Interest Provisions of this Contract.**

DHS/DAAS reserves the right to investigate and audit the records and transactions of the Local Agency at any time to determine if the Local Agency has complied with the restrictions on Conflicts of Interest, and to determine if the Local Agency took appropriate measures to assure that the goods or services provided under this Contract

afford DHS/DAAS a satisfactory level of quality and cost. Appropriate measures taken by the Local Agency to avoid improper Conflicts of Interest might include, for example, competitive bidding for the goods or services purchased by the Local Agency, or a requirement that billings include supporting documentation showing that costs were necessary, reasonable and actually incurred.

- i. **Remedies for Non-Compliance with the Conflict of Interest Provisions of This Contract.** The parties expressly acknowledge that if DHS/DAAS reasonably determines that the Local Agency has failed to comply with the Conflict of Interest provisions of this Contract and has entered into any prohibited transaction or arrangement that is disadvantageous to DHS/DAAS, DHS/DAAS shall have the option to rescind or void this Contract without paying for services provided and without returning any consideration received. Regardless of whether DHS/DAAS rescinds this Contract, DHS/DAAS shall also have the option to disallow the Local Agency's expenditures and to adjust its payments to the Local Agency by deducting such disallowed expenditures or by requiring the Local Agency to immediately refund any payments previously made, as provided in Part III of this Contract. If DHS/DAAS requests a refund from the Local Agency, the Local Agency shall refund the payment within thirty (30) days of receiving notice of such overpayment, and shall pay DHS/DAAS interest at the rate of eight percent (8%) a year, beginning on the thirty-first day after the Local Agency receives such notice.

SECTION D: COMPLIANCE MONITORING AND RECORD KEEPING RESPONSIBILITIES

1. **MONITORING OF PERFORMANCE AND ACCESS TO THE RECORDS:** DHS shall have the right to monitor the Local Agency's performance regarding all services provided pursuant to this Contract. Monitoring of Local Agency's performance shall be at the complete discretion of DHS, who will rely on the criteria set forth in this Contract. Performance monitoring may include both announced and unannounced visits.

The Local Agency shall provide DHS with ready electronic or on site access to any records produced or received by the Local Agency in connection with the services provided pursuant to this Contract. The type of access shall be at the complete discretion of DHS.

The Local Agency shall allow independent, state and federal auditors or contract reviewers to have electronic or on site access to any records related to this Contract, including all financial records (such as accounting records and supporting documentation) for audit review and inspection. The type of access shall be at the complete discretion of the auditors or contract reviewers.

2. **CONSULTATION/TECHNICAL ASSISTANCE:** DHS/DAAS may, but is not obligated to, provide the Local Agency with consultation and technical assistance to help the Local Agency improve its performance under this Contract.

3. **TRAINING FOR LOCAL AGENCY'S STAFF:** Local Agency shall conduct all necessary training to ensure that its staff carries out its responsibilities under this Contract and that the staff is familiar with the requirements imposed by this Contract and applicable laws.
4. **RECORD-KEEPING AND REPORTING REQUIREMENTS:** The Local Agency shall comply with all record-keeping and reporting requirements of this Contract. The Local Agency shall maintain or shall supervise the maintenance of all records necessary for the proper and efficient operation of the programs covered by this Contract, including records relating to applications, critical incidents (pursuant to the Critical Incidents and Events Protocol provided by DHS/DAAS), Adult Protective Service (APS) referrals, determination of clients' eligibility, the provision of services and administrative costs, payments to non-traditional service providers, and any other records, such as statistical and fiscal records, necessary for complying with the reporting and accountability requirements of this Contract.
5. **RETENTION OF RECORDS RELATED TO THIS CONTRACT:** The Local Agency shall retain all records related to this Contract for the following periods of time:
 - a. **Administrative Records and Records Relating to Clients:** The Local Agency shall retain all administrative records relating to this Contract and all client records (including records that support Title XIX reimbursements) for at least six (6) years after DHS/DAAS makes the last payment on this Contract, or six (6) years after the completion of any audits initiated within this six-year period, whichever period is longer.
 - b. **DHS' Non-Exclusive Ownership of Records:** The Local Agency acknowledges that DHS/DAAS has a non-exclusive ownership interest in the records relating to this Contract, and the Local Agency shall not destroy any records relating to this Contract or the services provided pursuant to this Contract for the six-year period defined in subsection a. above.
 - c. **Destruction of Records:** After the record retention period is met, the Local Agency may destroy the records in such a manner that protects the confidentiality of Waiver clients.
6. **PROTECTING THE CONFIDENTIALITY OF CLIENT RECORDS:** The Local Agency shall maintain all client records in locked rooms or cases or in password-protected electronic files. Except with the express written consent of the client, the Local Agency shall not use any client information for purposes not directly connected with the responsibilities or services pursuant to this Contract. The Local Agency may disclose client information only as provided by this Contract, as authorized by the client in writing, or as required by law. The Local Agency's staff shall have access only to those portions of the records directly related to their work assignments.

SECTION E: SUBCONTRACTS, CONTRACT MODIFICATIONS, AND DISPUTE RESOLUTION PROCEDURES

1. **SUBCONTRACTS:** The Local Agency **shall not** subcontract any Waiver services. The term "subcontract" means an agreement between an individual or entity and the Local Agency to perform the functions for which the Local Agency is responsible under the terms of this Contract.
2. **CONTRACT ASSIGNMENT:** The Local Agency may not assign its benefits and obligations under this Contract to any other entity.
3. **CONTRACT RENEGOTIATIONS OR MODIFICATIONS:** The parties may amend, modify or supplement this Contract only by a written amendment signed by the parties and approved by the DHS Bureau of Contract Management or a notice issued pursuant to the terms of this contract. The amendment shall be attached to the original signed copy of this Contract.

DHS/DAAS shall not pay for any services provided pursuant to this Contract unless such payments are specifically authorized by this Contract or an approved written amendment to this Contract.

4. **CONTRACT TERMINATION:**
 - a. **Right to Terminate Upon Thirty Days Notice.** Either party may terminate this Contract, with or without cause, in advance of the Contract's expiration date by giving the other party thirty (30) days written notice.
 - b. **Cooperative Efforts to Protect the Clients.** If either party elects to terminate this Contract, both parties will use their best efforts to provide for uninterrupted client services.
 - c. **Processing Payments and Records Access After Termination.** Upon termination of the Contract, the parties shall use the financial and accounting arrangements set forth in this Contract to process the accounts and payments for any services that the Local Agency rendered before the termination. The Local Agency shall comply with the provisions of this Contract relating to the Local Agency's record-keeping responsibilities, and shall ensure that the Local Agency's staff properly maintains all records.
 - d. **Attorneys' Fees and Costs.** If either party seeks to enforce this Contract upon a breach by the other party, or if one party seeks to defend itself against liability arising from the negligence of the other party, the prevailing party shall receive from the unsuccessful party all court costs and its reasonable attorneys' fees.
 - e. **Remedies.** The parties may avail themselves of all legal, equitable and statutory remedies allowed by state and federal law.
5. **GRIEVANCE PROCEDURES FOR CLIENTS AND APPLICANTS:** The Local Agency shall establish a written policy and procedures describing its grievance system for its clients and applicants for Waiver program services provided pursuant to this Contract that complies with 42 CFR Part 431, subpart E. The Local Agency shall notify DHS/DAAS of all appeals. The Local Agency shall notify each client and applicant in writing of:

- a. the reason for any adverse action, which includes:
 - (1) denial or change of services provided pursuant to this Contract;
 - (2) denial of choice of provider if more than one qualified provider is available to render services provided pursuant to this Contract;
 - (3) exclusion from the program described in this Contract; or
 - (4) inadequacies or inequities in the program and services provided pursuant to this Contract;
- b. the right to appeal any adverse action to the Local Agency, and a detailed description of the appeal process;
- c. the right to appeal the decision of the Local Agency to DHS/DAAS Health Program Manager; and
- d. the right to appeal the adverse action or the decision of the Local Agency to the Utah Department of Health and request a formal administrative hearing.

PART II: SCOPE OF WORK AND SPECIAL CONDITIONS

1. Limitation of Use of Waiver Funds

The Local Agency shall use the funds paid under this contract only for the purposes specified in this contract and shall not use, transfer, move, or appropriate Waiver funds to provide any non-Waiver services.

2. Service Requirements

Services shall be provided in accordance with the requirements of the Waiver. DHS/DAAS is the Operating Agency and is authorized to delegate certain operating agency functions in accordance with the *State Implementation Plan* and as described in this Contract.

The Local Agency may also act as a Case Management Agency under the *State Implementation Plan* if it provides case management services. The Local Agency shall provide Waiver services in accordance with the current requirements of the *DHS/DAAS Medicaid Aging Waiver Program Training Manual*, which includes the *State Implementation Plan*, all Utah Department of Health, Bureau of Long Term Care approved forms, and the *Utah Department of Health, Division of Medicaid and Health Finance Provider Manual*.

a. Applicant Eligibility:

- (1) Only a Registered Nurse or physician (M.D. or D.O) currently licensed in the State of Utah and trained by the DHS/DAAS Registered Nurse can make level of care eligibility determinations.
 - (a) Either a Registered Nurse, a physician (M.D. or D.O), or a team consisting of a Registered Nurse and either a Social Service Worker or a Certified Care Manager shall prepare a comprehensive care plan.
 - (b) The Local Agency shall electronically send all level of care determinations, assessments, and comprehensive care plans to DHS/DAAS for review and confirmation **prior to the provision of any services** to the applicant or client. If the Local Agency provides services prior to receiving written confirmation from DHS/DAAS and if DHS/DAAS does not agree with the Local Agency's decision, the Local Agency shall be responsible to pay for all of the services provided from a funding source other than this Contract.
 - (c) If an individual will be providing Case Management services for a Waiver client and is also doing any of the operating functions designated to the Local Agency, then the DHS/DAAS Waiver RN must approve those functions in writing as the Operating Agency.
- (2) The Local Agency shall verify continued eligibility for both Medicaid and level of care at least annually for each Waiver services client.

- (3) A Local Agency comprehensive care plan review shall be conducted at any time a substantial change occurs in a client's health status, and at the conclusion of an inpatient stay in a medical institution.

b. Assessment, Treatment Planning and Reporting

- (1) A comprehensive care plan for each Waiver services client shall be completed by the Local Agency within 14 calendar days of the date the client is determined eligible for services. The comprehensive care plan shall be based on the assessed needs of the client and include both formal and informal supports necessary to meet those needs once services are initiated. The comprehensive care plan shall address the following:
 - (a) the specific services needed by the client;
 - (b) the number of units required for each service;
 - (c) the name of the service provider(s) who will be providing the services identified; and
 - (d) the payment source, if any.
- (2) Any changes to the comprehensive care plan must first be approved by the Local Agency. The Local Agency shall verify that the comprehensive care plan is reviewed and updated at least quarterly by the provider of Case Management services.
- (3) The Local Agency's case managers shall notify DHS/DAAS whenever an APS referral is made concerning a Waiver client.
- (4) The Local Agency or the Local Agency's case managers shall fill out a Critical Incident Form, according to the Critical Incident and Event Protocol provided by DHS/DAAS, and electronically submit it to DHS/DAAS within 24 hours of the incident.
- (5) The Local Agency shall assist in the transition of clients from the Waiver program to a nursing facility of the client's choice when the client and/or the client's representative requests placement. The Local Agency shall disenroll clients in accordance with Utah Department of Health Medicaid Home and Community Based Program, Disenrollment Protocol.
- (6) The Local Agency shall contact DHS/DAAS and obtain its written approval prior to starting disenrollment proceedings except in cases of death, nursing home placement, inability to locate the client, or the client moving out of state.

c. Record Keeping Responsibilities

The Local Agency shall be responsible for the following:

- (1) Ensuring a Demographic Intake and Risk Screening form is kept on file for all applicants. When an applicant is placed on Waiver services, the form shall be maintained in the individual's client file.
- (2) Completing the Nutritional Screening form for all Waiver clients.
- (3) Completing the Minimum Data Set – Home Care (MDS-HC) as part of the process to determine level of care eligibility.
- (4) Maintaining individual client files on all clients receiving Waiver services, and ensuring that the Case Management Agency also maintains individual client files on all clients for whom it is providing Waiver services. All client files shall contain the following information:
 - (a) Initial and annual documentation that the client is eligible for Medicaid using the UTAH-DOH-BES Form 927 including documentation of any assistance given to the applicant in submitting the Medicaid Eligibility Application and of the referral of the client for Waiver services.
 - (b) At a minimum, an initial and annual determination that the client meets Waiver criteria for requiring the level of care provided by a nursing facility completed prior to the time the client initially began receiving Waiver services and before they continue receiving services annually. A level of care screening shall also be conducted at any time a substantial change occurs in a client's health status, and at the conclusion of an inpatient stay in a medical institution.
 - (c) At a minimum, an initial and annual MDS-HC and its Supplement along with the accompanying comprehensive care plan.
 - (d) A copy of the LTC (Long Term Care) Program Choice and Right to a Fair Hearing and Appeal form signed by the client as well as a signed copy of the Release of Information, Rights and Responsibilities, and any Notice of Decision forms.
 - (e) Documentation verifying that copies of all client signed documents were sent or given to the client.
 - (f) A comprehensive care plan completed within fourteen (14) calendar days after the client was determined eligible for Waiver services.
 - (g) Case Management Agency's quarterly reviews of the client's status and comprehensive care plan.
 - (h) Annual documentation of the client's choice of a service provider for all identified service needs, including case management.

- (i) Annual documentation that client has a functioning fire extinguisher, smoke and CO detectors, or justification for not having these.
- (j) Annual documentation, and condition, of all currently used medical equipment in the home.
- (k) If personal attendant services are used pursuant to this contract, annual documentation of each personal attendant's background screening approval from the DHS, Office of Licensing, and current first aid certification.

d. **Applicant List**

The Local Agency shall electronically submit all Demographic Intake and Risk Screening forms to DHS/DAAS so that DHS/DAAS may maintain a statewide applicant list. DHS/DAAS will determine which individuals on the applicant list are at the greatest risk of nursing home placement based on the risk scores obtained from the Demographic Intake and Risk Screening forms, and will authorize the filling of slots for the provision of services accordingly. **Before any individual authorized by DHS/DAAS to receive services is enrolled as a waiver client by the Local Agency,** the Local Agency shall notify DHS/DAAS if the enrollment of the individual will exceed the slots and/or funding allocated to the Local Agency in this Contract.

e. **Medicaid Aging Waiver Service Providers**

The Local Agency **may not contract** with any Medicaid providers for the Medicaid Waiver Services provided pursuant to this contract. All providers must complete a Medicaid Provider Application packet which includes an Agreement and be assigned a Medicaid provider number.

Traditional Medicaid Service Providers are providers that have been issued provider number(s) by Medicaid and choose to bill Medicaid directly for services rendered.

Non-Traditional Medicaid Service Providers are providers of goods and services that choose to not bill Medicaid directly. Once the provider has been assigned a Medicaid provider number they can choose whether they want to bill Medicaid directly or voluntarily reassign payments to the Local Agency. If the provider elects to voluntarily reassign payments to the Local Agency and the Local Agency agrees to submit claims for the provider, the provider is required to sign a voluntary fiscal reassignment agreement with the Local Agency to receive payment from Medicaid. Voluntary fiscal reassignment agreements with Non-traditional Medicaid providers are not considered subcontracts pursuant to this contract.

The Local Agency shall maintain a file for each service provider. Files shall contain current and historical copies of the following documentation:

- (1) Each service provider's Medicaid Provider application, agreement and Attachment A to that agreement.
- (2) An appropriate Negotiated Waiver Rate Sheet on file for each service provided by the service provider. (The negotiated rate shall not exceed the Waiver maximum allowable rate for that service.)
- (3) All licenses, certifications, and other standards required by the *State Implementation Plan*.
- (4) A written quality assurance plan that provides for the Local Agency and DHS/DAAS monitoring of all services rendered by a service provider.
- (5) Documentation of all Local Agency service provider monitoring activities and findings pursuant to its quality assurance plan.

PART III: CONTRACT COSTS, BILLING AND PAYMENT INFORMATION

1. **LOCAL AGENCY'S SPECIFICS:**

- a. Billing name and address of the Local Agency:

Tooele County Corporation
47 South Main Street
Tooele, Utah 84074-2194

- b. Telephone number: (866) 707-3100

- c. Name and address of the entity or individual preparing Local Agency's audit report or financial statement:

Haynie and Company
1785 West Printers Row
Salt Lake City, Utah 84119
Telephone number: (801) 972-4800

2. **REQUIREMENTS SPECIFIC TO ADMINISTRATIVE SERVICES:**

- a. **Basis for Payment -- Cost-Reimbursement.** DHS/DAAS' payment is based on supporting documentation from the Local Agency showing that the costs were necessary, reasonable and actually incurred by the Local Agency.
- b. **Basis for Local Agency's Compensation.** DHS/DAAS shall determine the "Maximum Amount" that it may pay to the Local Agency for the administrative services authorized under this Contract. This amount is comprised of an "Approved Budget Amount" plus a "Discretionary Amount". The "Approved Budget Amount" is the administrative budget amount listed in this Contract. The "Discretionary Amount" is the additional discretionary amount that may be available to the Local Agency.

The DHS/DAAS shall pay the Local Agency up to the total Approved Budget Amount for administrative services. **However, access to all or any portion of the Discretionary Amount is not guaranteed.** Access is at the discretion of DHS/DAAS and requires its prior written authorization.

The Approved Budget Amount portion of this Contract is **\$11,000.00;**

The Discretionary Amount portion is **\$1,000.00;** and

The Maximum Amount available for administrative services required under this Contract is **\$12,000.00.**

- c. **Method and Source of Payment.** The Local Agency shall submit to DHS/DAAS on the DHS 1032 Billing Form, an itemized billing for its allowable services together with the supporting documentation required for reimbursement. The service code "AMW" and billing code "7302" shall be used when billing DHS/DAAS for administrative service expenses incurred under this contract.

The Local Agency shall track and report how much of its administrative service total is in the RN category and how much is in the Reconciliation category. The RN category reports time spent in activities that require the level of medical expertise of a currently licensed RN. The Reconciliation category reports time spent in reconciliation of Medicaid Management Information System (MMIS) billings.

- d. **Billing Period and Deadlines.** The billing period for administrative services under this contract is monthly. The Local Agency shall submit all billings for administrative services rendered during a given billing period within twenty (20) days after the last day of the month. All final billings for administrative services provided under this contract must be received within twenty (20) days of termination of the contract, regardless of the billing period. If the Local Agency fails to meet these deadlines, DHS/DAAS may deny payment for such delayed billings.

The State Fiscal Year is from July 1 through June 30. The Contractor shall submit all billings for administrative services performed on or before June 30th of a given fiscal year no later than July 20th of the following fiscal year, regardless of the termination date of the contract. DHS/DAAS may delay or deny payment for services performed in a given fiscal year if it receives the Contractor's billing for those services later than July 20th of the following fiscal year.

3. **REQUIREMENTS SPECIFIC TO CLIENT SERVICES:**

- a. **Method and Source of Payment.** DHS/DAAS makes no payments to the Local Agency or service providers for client services. The Local Agency shall submit all claims for client services required under this contract directly to the Department of Health in accordance with Department of Health State Medicaid billing practices and procedures for allowable services as reflected in the negotiated service rate sheet.
- b. **Claims Deadline and Disputes.** The Local Agency shall submit all claims for client services directly to the Department of Health within 90 days of the provision of services. The Local Agency shall notify all of its service providers that if claims are submitted to the Department of Health after 90 days from the date services are provided, the claims are not eligible for payment. If the Local Agency or its service providers fail to meet these deadlines, the Department of Health will deny payment. If payment is denied by the Department of Health, DHS/DAAS may or may not attempt to resolve claims disputes.
- c. **Client Service Budget.** DHS/DAAS shall determine the total amount that may be expended for client services provided by either the Local Agency or its service provider. DHS/DAAS may increase or decrease the Local Agency's budget for client services at

any time by written memorandum to the Local Agency. Any decrease in the client service budget will not reduce the level of services provided to current Waiver enrollees.

The amount that may be expended for client services under this Contract is \$69,000.00.

- d. **Slots Allocated to the Local Agency for Client Services.** Slots are tied to individual Waiver enrollees (persons eligible to receive Waiver services). The individual enrollees must receive at least one Waiver service during the fiscal year, and the slot cannot be used again in the same fiscal year by another enrollee.

The number of slots allocated to the Local Agency for providing client services under this Contract is limited to **10**. Any allocated slots not in use as of July 1st of each fiscal year shall not be filled without prior written approval from DHS/DAAS.

DHS/DAAS may increase or decrease the number of allocated slots at any time by written memorandum to the Local Agency. Any decrease will not eliminate a slot that has been filled during the fiscal year. The Local Agency is responsible for monitoring its use of allocated slots and notifying DHS/DAAS in writing when there is a need to increase slots **before** the Local Agency has filled all of its allocated slots.

- e. **Payor of Last Resort.** The Waiver shall always be the payor of last resort for authorized client services. The Local Agency shall not seek reimbursement from Waiver funds for non-authorized services or services otherwise available through the Medicaid State Plan.
- f. **Mismanagement:** The Local Agency is responsible for managing its expenditures. If the Local Agency expenditures exceed its authorized amount for client services, the Local Agency shall pay to DHS/DAAS the required State Match portion of the overpayment amount. The State Match portion is the amount DHS/DAAS is assessed by the Utah Department of Health for these excess expenditures. This portion of the overpayment shall be due and payable upon demand by DHS/DAAS.

4. **OVERPAYMENTS, AUDIT EXCEPTIONS AND DISALLOWANCES:**

- a. **Administrative Services:** If, during or after the contract period, an independent CPA audit or DHS fiscal review determines that the payments made by DHS/DAAS to the Local Agency were incorrectly paid or were based on incorrect information from the Local Agency, DHS/DAAS may amend the Contract and adjust the Local Agency's payment rates for the remainder of the contract period or for any future contract. Upon written request by DHS/DAAS, any excess payments or questioned costs are immediately due and payable by the Local Agency.

DHS/DAAS shall have the right to withhold any or all subsequent administrative service payments under this contract with the Local Agency until DHS/DAAS fully recoups any overpayments made to the Local Agency.

- b. **Client Services:** If an independent CPA audit or DHS fiscal review determines that the Department of Health has over-paid the Local Agency, or its service providers, for

services or paid for services not authorized under the client's comprehensive care plan, the Local Agency will adjust those claims and shall submit corrected claims for those services, or will refund any excess payments to DHS/DAAS and to the Department of Health, upon written request.

5. **PAYMENT WITHHOLDING:** The Local Agency agrees that the reporting and record-keeping requirements specified in this Contract are a material element of performance, and that if DHS/DAAS believes that the Local Agency's record-keeping practices or reporting to DHS/DAAS are not conducted in a timely and satisfactory manner, DHS/DAAS may withhold part or all administrative services payments under this contract until the Local Agency remedies such deficiencies. DHS/DAAS shall give the Local Agency prior written notice that the payment(s) will be withheld, and the notice shall specify the reasons for the withholding the payment(s) and the actions the Local Agency must take to bring about the release of the withheld payments.

PART IV: COST ACCOUNTING PRINCIPLES AND FINANCIAL REPORTS

SECTION A: DEFINITIONS

The following definitions are provided for the convenience of the Local Agency and so that the Local Agency may comply with the DHS reporting requirements:

1. **"AICPA"** means American Institute of Certified Public Accountants.
2. **"Audit"** means an examination that:
 - a. Analyzes the accounts of all officers of the entity having responsibility for the care, management, collection, or disbursement of moneys belonging to it or appropriated by law or otherwise acquired for its use or benefit;
 - b. Is performed in accordance with generally accepted government auditing standards ("GAGAS"); and
 - c. Conforms to the uniform classification of accounts established or approved by the state auditor or any other classification of accounts established by any federal government agency.
3. **"Audit Report"** includes:
 - a. The financial reports presented in conformity with generally accepted accounting principles ("GAAP");
 - b. The auditor's opinion on the financial reports;
 - c. A statement by the auditor expressing positive assurance of compliance with state fiscal laws identified by the state auditor;
 - d. A copy of the auditor's letter to management that identifies any material weakness in internal controls discovered by the auditor and other financial issues related to the expenditure of funds received from federal, state, or local governments to be considered by management; and
 - e. Management's response to the specific recommendations.
4. **"Compilation"** means information presented in the form of a financial report prepared in conformity with GAAP (except that a cash basis accounting method is acceptable) that is the representation of management without the accountant undertaking to express any assurances on the financial report.

5. **"Federal Clearinghouse"** means the federal clearinghouse designated in OMB Circular A-133.
6. **"Federal Funds"** is as defined in OMB Circular A-133.
7. **"Financial Reports"** include an audit, a review, a compilation, a statement of functional expenses, a balance sheet, an income statement, a statement of cash flows, or the preparer's notes to the Financial Reports.
8. **"GAAP"** means Generally Accepted Accounting Principles, a combination of authoritative accounting principles, standards and procedures (set by policy boards).
9. **"GAAS"** means Generally Accepted Auditing Standards, issued by the AICPA.
10. **"GAS/GAGAS"** means Government Auditing Standards, issued by the Comptroller General of the United States (also known as "Yellow Book" standards). GAS is often referred to as Generally Accepted Government Auditing Standards ("GAGAS"). GAGAS incorporates the generally accepted standards issued by the AICPA.
11. **"Government Funds"** means financial assistance that a contractor receives from a combination of government sources, including federal awarding agencies, state appropriations and other local governments. All of the funds paid to the Contractor pursuant to this Contract are considered "Government Funds" for purposes of determining the Contractor's financial reporting requirements.
12. **"Management Letter"** means the auditor's notes and recommendations to the Contractor's management personnel subsequent to a fiscal audit.
13. **"OMB"** means the federal Executive Office of the President, Office of Management and Budget.
14. **"OMB Circular"** means a publication issued by the OMB that sets forth federal cost accounting and auditing requirements.
15. **"Pass-Through Entity"** means an entity that receives federal funds and then passes those funds through to subrecipients.
16. **"Program-Specific Audit"** means an audit of one specific federal program, using GAGAS standards, as described in OMB Circular A-133.200(c) and A-133.235.
17. **"Questioned Costs"** means costs that are questioned by the auditor because of audit findings, including but not limited to findings:
 - a. Which result from a violation or possible violation of a provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of State or federal funds, including funds used to match federal funds;

- b. Where the costs, at the time of the audit, are not supported by adequate documentation;
or
 - c. Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.
18. **"Reporting Package"** means the auditor's package of financial reports as defined in OMB Circular A-133, and includes Financial Reports and Schedule of Expenditures of Government Funds, Summary Schedule of prior audit findings, auditor's report(s), and corrective action plan.
19. **"Review"** means performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial reports for them to be in conformity with generally accepted accounting principles.
20. **"Single Audit"** means an audit using GAGAS standards, as described in OMB Circular A-133.500, which includes both the Contractor's financial reports and its federal awards.
21. **"Statement of Functional Expenses"** means a breakdown of administrative expenses and expenses attributed to actual program services on a program-by-program basis.
22. **"Subrecipient"** is as defined in OMB Circular A-133.
23. **"SULCAG"** means the State of Utah Legal Compliance Audit Guide issued by the State Auditor's Office.
24. **"Summary Schedule"** means a summary listing of all Audit Findings reported in the prior annual audit, and includes the Summary Schedule reported in the prior annual audit, except Audit Findings listed as corrected.

SECTION B: COST PRINCIPLES AND ACCOUNTING REQUIREMENTS

1. **APPLICABLE COST PRINCIPLES:** The Local Agency shall comply with the federal cost accounting principles applicable to the Local Agency's type of business organization regardless of the source of contract funding. Federal cost accounting principles determine allowable costs in DHS contracts as described in circulars published by the OMB, including, but not limited to, OMB Circulars A-87 and A-122. 'For-profit' organizations are required to follow the federal cost accounting principles for 'non-profit' organizations. The Local Agency shall also comply with established DHS cost accounting principles. A link to the DHS cost accounting principles may be found at:

http://www.hsofo.utah.gov/services_contract_info.htm

2. **LOCAL AGENCY'S COST ACCOUNTING SYSTEM:** Local Agency shall maintain a financial and cost accounting system in accordance with GAAP, issued by the AICPA; or "Governmental GAAP," issued by the United States Governmental Accounting Standards Board. At a minimum, the Local Agency's accounting system shall provide for a General Ledger, and cost accounting records adequate to assure that costs incurred pursuant to this Contract are reasonable, allowable, allocable to Contract objectives, and separate from costs associated with other business activities of the Local Agency.
3. **REQUIRED DOCUMENTATION:** The Local Agency shall ensure that all program expenditures and revenues are supported by reasonable documentation, as required by Federal, State and DHS Cost Principles including but not limited to itemized vouchers, invoices, receipts and timesheets. The Local Agency shall store and file required documentation in a systematic and consistent manner. Local Agency shall maintain all such documentation until six years after all audits initiated by federal and state auditors are completed, or for six years from the date of termination of this Contract, whichever is longer. **This provision shall survive the termination of this Contract.**

SECTION C: FINANCIAL REPORTING REQUIREMENTS

1. REPORTING REQUIREMENTS

- a. **Type of Financial Report Required.** Whether or not the Local Agency is required to obtain and submit an annual audit or other financial report is determined by the Local Agency's entity type and the amount and source of its funds, revenues and/or expenditures during a given year.
- b. **Compliance with Applicable Federal and State Requirements.** The Local Agency shall comply with all applicable federal and state laws and requirements regarding financial reporting set forth in:
 - (1) OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations", published by the federal government;
 - (2) Utah Code § 51-2a-101 *et. seq.*; and
 - (3) The SULCAG issued by the State Auditor's Office.

A summary of these reporting requirements is provided in Table 1 below.

- c. **Additional State Audit Requirements for Local Mental Health and Local Substance Abuse Authorities.** Pursuant to Utah Code § 62A-15-110 as amended, if the Local Agency is a Local Mental Health or Local Substance Abuse Authority, the Local Agency shall also:
 - (1) Ensure that audits of the Local Agency and its subcontractor's programs and services are conducted by an independent auditor pursuant to Title 51, Chapter

2a of the Utah Code, "Accounting Reports from Political Subdivisions, Interlocal Organizations and Other Local Entities Act".

- (2) Comply with guidelines and procedures prescribed by DHS in accordance with those formulated by the state auditor pursuant to Utah Code § 67-3-1, for auditing the compensation and expenses of officers, directors, and specified employees of the Local Agency's subcontractor to assure no personal benefit is being gained from travel and other expenses.
- (3) Allow DHS to prescribe specific items to be addressed by the Local Agency and/or its subcontractor's audit based on particular needs and concerns DHS has about the Local Agency or its subcontractor.
- (4) Invite all funding partners to the Local Agency's and its subcontractor's pre- and exit audit conferences.
- (5) Ensure that each member of the Local Agency annually certifies that the member has received and reviewed the independent audit and has participated in a formal interview with the executive officers of the Local Agency's subcontractor.
- (6) Ensure all audit reports by state or county persons or entities concerning the Local Agency or its subcontractor shall be provided to the executive director of DHS, the Local Agency, and members of the subcontractor's governing board.

d. **Compliance with Applicable DHS Financial Reporting Requirements:** The Local Agency shall comply with all applicable DHS financial reporting requirements of this Contract as set forth in Table 2 below.

2. **SUBMISSION OF REQUIRED FINANCIAL REPORTS:**

- a. **Filing Deadlines:** Where the Local Agency is required to submit federal and State financial reports, the Local Agency shall be bound by the submission deadlines stated in OMB Circular A-133 and Utah Code § 51-2a-101 *et. seq.*

Where the Local Agency is required to submit financial reports to DHS pursuant to this Contract, the Local Agency shall be bound by the applicable submission deadline stated in Table 2 below.

- b. **Extensions:** If the Local Agency needs an extension to file any federal reports, the Local Agency must contact the Federal Clearinghouse or federal awarding agencies. If the Local Agency needs an extension to file any State reports, the Local Agency must contact the State Auditor's Office.

If the Local Agency needs an extension to file any report with DHS, the Local Agency may request an extension by contacting the BCM Financial Analyst at the address identified in the paragraph below.

- c. Addresses: The Local Agency shall submit all required federal and State financial reports to the entities identified in the applicable law. Where the Local Agency is required to submit financial reports to DHS, the Local Agency shall send the required reports to the address below:

Department of Human Services
Bureau of Contract Management
Attention: Financial Analyst
195 North 1950 West
Salt Lake City, UT 84116

Table 1: Federal and State Annual Financial Reporting Requirements

FEDERAL REPORTING REQUIREMENTS (OMB Circular A-133)		UTAH STATE REPORTING REQUIREMENTS (Utah Code § 51-2a-101 et. seq.)	
<u>TYPE OF ENTITY</u> Government Entity OR Non-Profit Subrecipient	<u>SUBMISSION DEADLINE</u>	<u>TYPE OF ENTITY</u> Government Entity OR Non-Profit Organization that Receives 50% OR MORE of Its Funding from Government Funds ¹	<u>SUBMISSION DEADLINE</u>
<p>\$500,000 OR MORE expended in federal funds:</p> <p>Single Audit or Program Specific Audit, using GAGAS standards (OMB Circular A-133.200, A-133.235, and A-133.500) AND the following financial reports:</p> <p>1. <u>Data Collection Form</u>, as described in OMB Circular A-133.320 (a), (b) and (d), -- to Federal Clearinghouse.</p> <p>2. <u>Reporting Package</u> -- to: (a) Federal Clearinghouse; and (b) Each federal awarding agency - if audit disclosed Audit Findings or reported the status of any Audit Findings in the Summary Schedule. (OMB Circular A-133.320 (c) and (d))</p> <p>3. <u>Submission by Subrecipients</u>: (a) "Reporting Package" to each Pass-Through Entity when Audit Findings were disclosed relating to federal awards; (b) "Written Notification" to each Pass-Through Entity when no Audit Findings were disclosed and a Reporting Package was not required. (OMB Circular A-133.320(c)(1) and (c)(2))</p>	<p>Thirty (30) days after the Contractor receives the auditor's reports, or nine months after the end of the fiscal year audited, whichever occurs first.</p>	<p>\$500,000 OR MORE expended in federal funds:</p> <p>1. Copy of the entire <u>Single Audit or Program Specific Audit</u>.</p> <p>2. The auditor's management letter, if the Single Audit or Program Audit report disclosed any Audit Findings.</p>	<p>Within six (6) months after the end of the Contractor's fiscal year.</p>
		<p>LESS THAN \$500,000 expended in federal funds, but \$350,000 OR MORE in total revenues or expenditures:</p> <p>1. CPA Audit performed in accordance with GAGAS.</p> <p>2. The auditor's management letter, if the GAGAS report disclosed any Audit Findings.</p>	
		<p>LESS THAN \$350,000, but \$200,000 OR MORE in total revenues or expenditures:</p> <p>Unaudited CPA Review.</p>	
		<p>LESS THAN \$200,000 but \$100,000 OR MORE in total revenues or expenditures:</p> <p>Unaudited CPA Compilation.</p>	
<p>LESS THAN \$500,000 expended in federal funds:</p> <p>No audit required but records must be available for review or audit per OMB Circular A-133.200(d).</p>		<p>LESS THAN \$100,000 in total revenues or expenditures:</p> <p>Financial information on the form approved by the State Auditor.</p>	

¹ There are no reporting or auditing requirements to the State Auditor's Office for Non-Profit Organizations that receive Less Than 50% of their total funding from Government Funds, regardless of the amount of funding.

Table 2: DHS Annual Financial Reporting Requirements

TYPE OF ENTITY ²				SUBMISSION DEADLINES
Government Entities and Non-Profit Subrecipients with \$500,000 OR MORE Expended in Federal Funds	Government Entity OR Non-Profit Organization that Receives 50% OR MORE of Its Total Funding from Government Funds	Non-Profit Organization that receives LESS THAN 50% of Its Total Funding from Government Funds OR For-Profit Organization	Foreign Organization	
<p>A copy of the entire Single Audit or Program Specific Audit prepared to meet the Contractor's federal reporting requirement including:</p> <p>a. The <u>Reporting Package</u> - if audit disclosed Audit Findings or reported the status of any prior Audit Findings in the Summary Schedule;</p> <p>b. The auditor's <u>Management Letter</u> if one was issued; and</p> <p>c. For Non-profit Subrecipients, the <u>Statement of Functional Expenses</u>.</p>	<p>A copy of the entire report prepared to meet the Contractor's Utah State reporting requirements and:</p> <p>a. The auditor's <u>Management Letter</u> if one was issued; and</p> <p>b. A <u>Statement of Functional Expenses</u>.</p>	<p>\$350,000 or MORE received from DHS:</p> <p>1. A CPA Audit performed in accordance with GAGAS.</p> <p>2. The auditor's <u>Management Letter</u>, if the audit report disclosed any Audit Findings.</p> <p>3. <u>Statement of Functional Expenses</u>.</p>	<p>1. The financial reports of foreign organizations (organizations located outside the State of Utah) shall be accepted as prepared to meet its federal and/or domestic state financial reporting requirements.</p> <p>2. If the foreign organization has a local subsidiary, division, or unit in the State of Utah, the organization shall also submit a <u>Statement of Functional Expenses</u> for the local subsidiary, division or unit in addition to the parent organization's financial report.</p>	<p>The deadline for submission of the Single Audit or Program Specific Audit when required is thirty (30) days after Contractor receives the auditor's reports, or nine (9) months after end of fiscal year audited, whichever occurs first.</p> <p>The submission deadline for all other types of financial reports, including other types of audits, is within six (6) months after the end of Contractor's fiscal year.</p>
		<p>LESS THAN \$350,000 but \$200,000 OR MORE received from DHS:</p> <p>An unaudited CPA Review, including a <u>Statement of Functional Expenses</u>.</p>		
		<p>LESS THAN \$200,000 but \$100,000 OR MORE received from DHS:</p> <p>An unaudited CPA Compilation, including a <u>Statement of Functional Expenses</u>.</p>		
		<p>LESS THAN \$100,000 but \$25,000 OR MORE received from DHS:</p> <p>A basic Financial Report with a balance sheet and an income/expense statement.</p>		
		<p>LESS THAN \$25,000 received from DHS:</p> <p>No Requirements.</p>		

² There are no financial reporting requirements to DHS for Sole Proprietors, Limited Liability Company (LLC) Sole Proprietors, or LLC Husband and Wife Partnerships.

PART V: COMMONLY APPLICABLE LAWS

SECTION A: COMPLIANCE WITH ADMINISTRATIVE GRANT REQUIREMENTS

The Local Agency is bound by federal law, which establishes various fiscal and administrative rules applicable to all entities that receive federal grant monies. These rules are published in OMB Circular A-110 and in the OMB Common Rule, which is codified in 45 C.F.R. Part 92 (1999) and 45 C.F.R. Part 74.

SECTION B: COMPLIANCE WITH GENERALLY APPLICABLE STATE AND FEDERAL LAWS

The Local Agency is required to comply with all anti-discrimination and drug-free workplace laws, and all laws governing research involving human subjects. When the Local Agency receives state or federal funds pursuant to this Contract, certain state and federal requirements also apply. The Local Agency shall comply with these laws and regulations to the extent they apply to the subject matter of this Contract and are required by the amount of state and federal funds involved in this Contract.

Table 3, "Federal and State Laws," is a reference guide to various laws and requirements. The information contained in this table is not exhaustive and the Local Agency shall seek independent legal advice.

Table 3: FEDERAL AND STATE LAWS

Description of Act	Applicable Federal Law	Applicable State Law
Discrimination and Employment Related Laws		
Age Discrimination Act of 1975	42 U.S.C. §§ 6101-6107; 45 C.F.R. Part 91	
Americans with Disabilities Act	42 U.S.C. § 12101 <i>et seq.</i> ; 28 C.F.R. Part 35, Part 39	
Civil Rights Act of 1964 as amended, Title VI	45 C.F.R. Part 80 42 U.S.C. § 2000d <i>et. seq.</i>	
Civil Rights Act of 1964, Title VII	42 U.S.C. § 2000e <i>et. seq.</i>	
Contract Work Hours and Safety Standards Act	40 U.S.C. §§ 3701-3704; 29 C.F.R. Part 5	
Copeland Anti-Kickback Act	45C.F.R. 2543.82, 18 U.S.C. § 874,29 C.F.R. Part 3	
Davis-Bacon Act	40 U.S.C. § 3142; 29 C.F.R. Part 5	
Drug-Free Workplace Requirements	41 U.S.C. § 701 through 707, Drug Free Workplace Act of 1988	Utah Code § 34-41-101 <i>et seq.</i> ; Utah Code § 34-38-1 <i>et seq.</i> ; Utah Code § 67-19-36 <i>et seq.</i> ; Utah Administrative Code, R477-14-1 <i>et seq.</i>
Education Amendments of	20 U.S.C. § 1681 <i>et. seq.</i> ;	

Description of Act	Applicable Federal Law	Applicable State Law
1972, Title IX	45 C.F.R. Part 86	
Employment Eligibility Verification	8 U.S.C. § 1324a	
Equal Employment Opportunity	Exec. Order No. 11246 (1965), as amended by Exec. Order No. 11375; 41 C.F.R. Part 60	
Equal Pay Act	29 U.S.C. § 206(d)	
Fair Labor Standards Act	29 U.S.C. § 201 <i>et seq.</i>	
Immigration Control and Reform Act	8 U.S.C. § 1324	
Identity Documents and Verification		Utah Code § 63G-11-103, <i>et seq.</i>
Protection and Advocacy for Individuals with Mental Illness Act	42 U.S.C. § 10801 <i>et seq.</i>	
Public Health Service Act, Section 522	45 C.F.R. Part 84.53	
Public Health Service Act, Section 526	45 C.F.R. Part 84.53	
Rehabilitation Act of 1973, as amended, Section 504	29 U.S.C. § 794; 45 C.F.R. Part 84	
Utah Antidiscrimination Act -- (Includes the prohibition of unlawful harassment)		Utah Code § 34A-5-101, <i>et seq.</i> (See also Utah Executive Order March 17, 1993, which prohibits sexual harassment of state employees and employees of public and higher education)
Utah Civil Rights Act		Utah Code § 13-7-1 <i>et seq.</i>
Utah Occupational Safety and Health Act		Utah Code § 34A-6-101, <i>et seq.</i>
Property Laws		
Energy Policy and Conservation Act	42 U.S.C. § 6322	
Federal Clean Air Act	42 U.S.C. § 7401 <i>et seq.</i>	
Federal Water Pollution Control Act	33 U.S.C. § 1251 <i>et seq.</i>	
Flood Disaster Act of 1973 and other flood hazard provisions	42 U.S.C. § 4106	
National Environmental Policy Act of 1969 ("NEPA")	42 U.S.C. § 4321 <i>et seq.</i> ; 40 C.F.R. Part 1500 <i>et seq.</i>	
National Historic Preservation Act ("NHPA") of 1966	16 U.S.C. § 470, <i>et seq.</i> ; 36 C.F.R. Part 800, <i>et seq.</i>	

Description of Act	Applicable Federal Law	Applicable State Law
Pro-Children Act of 1994	20 U.S.C. § 6081, <i>et seq.</i>	
Utah Clean Air Act		Utah Code § 26-38-1, <i>et seq.</i>
Medicaid and Utah False Claims Reporting Laws		
Civil False Claims Act	31 U.S.C. § 3729-3733 and Chapter 38	
Deficit Reduction Act of 2005	Public L. 109-171 (2006)	
Utah False Claims Act		Utah Code § 26-20-1 <i>et seq.</i>
Utah Protection of Public Employees Act		Utah Code § 67-21-1 <i>et seq.</i>
Miscellaneous Laws		
Abuse Reporting Requirements		Utah Code § 62A-4a-403; Utah Code § 62A-3-305.
Byrd Anti Lobbying Amendment	31 U.S.C. § 1352; 45 C.F.R. Part 93	
Debarment and Suspension	45 C.F.R. Part 76; Exec. Order No. 12549; Exec. Order No. 12689	
Ethics Acts		Utah Code § 67-16-7(2) and § 10-3-1301 <i>et seq.</i>
Government Records Access and Management Act (GRAMA),		Utah Code § 63G-2-101 <i>et seq.</i>
Hatch Act	5 U.S.C. § 1501, <i>et seq.</i>	Utah Code § 67-19-19
Health Insurance Portability and Accountability Act of 1996 (HIPAA)	45 C.F.R. Parts 160, 162, and 164	
Public Health Service Act, Section 474(a), Protection of Human Subjects	42 U.S.C. § 2899; 45 C.F.R. Part 46; 21 C.F.R. 50 & 21 C.F.R. 56	
Substance Abuse and Mental Health confidentiality of substance abuse and mental health records	42 U.S.C. § 290dd-2; 42 C.F.R. § 2 and 2a	
Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Government	45 C.F.R. § 92.36	
Governmental Immunity Act of Utah		Utah Code § 63G-7-101 <i>et seq.</i>
Utah Human Services Code		Utah Code Title 62A

PART VI: JURISDICTION, COPYRIGHT, AND OTHER GENERAL PROVISIONS

1. **CONTRACT JURISDICTION:** The provisions of this Contract shall be governed and interpreted according to the laws of the State of Utah and venue shall be in the Third District Court of Salt Lake County.
2. **SEVERABILITY CLAUSE:** A final determination that any provision of this Contract is illegal or void shall not affect the legality or enforceability of any other provision of this Contract.
3. **COPYRIGHT:** Except as otherwise expressly provided in this Contract, DHS owns the copyright for all materials developed by the Local Agency for DHS. If the Local Agency develops any materials for its own use in connection with this Contract, and if such materials are not required by this Contract or requested by DHS as part of the Local Agency's performance, the Local Agency may use those materials free of charge, and without obtaining prior permission.

The Local Agency is not entitled to use information generated in connection with this Contract for any purpose, including scholarly publications or research purposes, without the prior written approval of the DHS IRB.

- 4. **AUTHORITY OF THE PERSON SIGNING FOR THE LOCAL AGENCY:** The Local Agency represents that the person who has signed this Contract on behalf of the Local Agency has full legal authority to bind the Local Agency and to execute this Contract.
- 5. **LOCAL AGENCY HAS NOT ALTERED THIS CONTRACT:** By signing this Contract, the Local Agency represents that neither it nor its employees or representatives have in any way altered the language or provisions in the Contract, and that this Contract contains exactly the same provisions that appeared in this document and its exhibits when DHS/DAAS originally sent it to the Local Agency.

IN WITNESS WHEREOF, the parties executed this Contract:

LOCAL AGENCY

By: Colleen Johnson
 Type or Print Name: COLLEEN JOHNSON
 Title/Position: Commissioner
 Tooele County Corporation
 Date: 5 July 2011

DHS

By: [Signature]
 Nels R. Holmgren, Director
 Division of Aging and Adult Services
 Date: 07/18/11

LOCAL AGENCY

By: [Signature]
 Print Name: Joshua Maher
 Title/Position: Director
 Tooele County Aging and Adult Services
 Date: 7-5-11

RECEIVED AND PROCESSED

PROCESSED BY
 DIVISION OF FINANCE
 By: _____
 Sheri Witucki, Contract Analyst
 State Division of Finance
 Date: JUL 18 2011