

July 21, 2016

Board of Commissioners,
Clackamas County

Members of the Board:

Approval of an Agency Services Contract with Compass Group USA, Inc.
d.b.a. Bateman Senior Meals for Food Service for Five Clackamas County
Older Americans Act Nutrition Program Meal Sites

Purpose/Outcomes	Agreement with Compass Group USA, Inc. d.b.a. Bateman to provide Food Service for five OAA funded meal sites in Clackamas County.
Dollar Amount and Fiscal Impact	The maximum agreement is \$344,500. Funded by Social Services Div. agreement with Oregon Dept of Human Services, State Unit on Aging.
Funding Source	Federal Older American Act (OAA) - no County General Funds are involved.
Safety Impact	None
Duration	Effective July 1, 2016 and terminates on June 30, 2017
Previous Board Action	
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	7680

BACKGROUND:

The Social Services Division of the Health, Housing & Human Services Department request the approval of an Agency Services Contract with Compass Group USA, Inc. This agreement provides funding for food services through Compass Group USA, Inc.; d.b.a. Bateman Community Living, to five Older Americans Act (OAA) funded senior nutrition program meal sites. The sites are located in Estacada, Gladstone, Oregon City, Molalla, and Sandy and provide meals for persons age 60 and over. These meals are served at the above Sites as either the noon meal served at the Senior Center or as Meals on Wheels® delivered by a volunteer. The goal of the program is to help residents meet their nutritional and social needs. This helps them to remain independent and involved in the community as long as possible.

In December 2013 Social Services advertised for a contractor to provide Older American Act funded food services in Clackamas County during Fiscal Year 2014-15, with an option to renew for four additional years. Compass Group USA, Inc.; d.b.a. Bateman was the only responder so an agreement with them was negotiated. This is the third agreement under that RFP process.

Total amount of the contract is \$344,500 for up to 93,000 meals. This contract is in the format approved by County Counsel as part of the H3S contract standardization project. No County General Fund dollars are involved. The contract begins July 1, 2016 and continues through June 30, 2017.

Recommendation

We recommend the approval of this contract and that Richard Swift, H3S Director be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services

CONTRACT FOR SERVICES

between

CLACKAMAS COUNTY SOCIAL SERVICES DIVISION
AREA AGENCY ON AGING

And

COMPASS GROUP USA, Inc., dba

BATEMAN COMMUNITY LIVING

Fiscal Year 2016-17

TABLE OF CONTENTS

<u>Topics</u>	<u>Page Numbers</u>
I. Scope of Services	1
II. Compensation and Records	1 & 2
III. Manner of Performance	2 & 3
IV. General Conditions	3 - 9
Signatures	10
Exhibit 1 - Scope of Work and Performance Standards and Guidelines for Service	11 - 14
Exhibit 2 - Reporting Requirements	15 & 16
Exhibit 3 - Budget and Units of Service	17 & 18
Exhibit 4 - AGENCY Information	19 & 20

AGENCY SERVICE CONTRACT

This contract is between Clackamas County acting by and through the Health, Housing, & Human Services department, Social Services Division, hereinafter called "COUNTY," and Compass Group USA, Inc., dba Bateman Senior Meals, hereinafter called "AGENCY."

I. SCOPE OF SERVICES

A. AGENCY agrees to accomplish the following work under this contract:

Food Service - produce and bulk deliver meals to Five (5) Senior Nutrition Program meal sites in Clackamas County (Estacada, Gladstone, Molalla, Oregon City, and Sandy). Each meal must contain at least one-third of the Recommended Dietary Allowance (RDA) as established by the Food and Nutrition Board, National Research Council - National Academy of Science. A unit is one meal ordered and delivered from the central kitchen.

Scope of Work, Performance Standards and Guidelines for Service is Exhibit 1, attached hereto.

B. Services required under the terms of this agreement shall commence July 1, 2016. This agreement shall terminate June 30, 2017. This contract is the result of the formal proposal process conducted January 2014. This is the third renewal agreement under this process.

II. COMPENSATION AND RECORDS

A. Compensation. County shall compensate the Agency for satisfactorily performing the services identified in Section I on a fixed unit rate reimbursement basis, as described in Exhibit 3, "Budget and Units of Service," attached hereto. The maximum net compensation is \$344,500.

B. Method of Payment. To receive payment, the Agency shall submit monthly billings and accompanying back-up reports by the 10th business day of the month following the billing period, as described in Exhibit 2. The billings and back-up reports will be on forms provided or approved by County. The billings are for:

1. Number of meals ordered by and delivered from kitchen to each of the sites.
2. Consumables or other supplies that meal sites purchase from Agency will be paid for by individual sites.
3. Withholding of Contract Payments: Notwithstanding any other payment provision of this agreement, should the Agency fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, the County shall immediately withhold payments hereunder. Such

withholding of payment for causes may continue until the Agency submits required reports, performs required services, or establishes the County's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of the Agency

- C. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this contract and all other pending matters are closed.
- D. Access to Records. The County, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Agency which are directly pertinent to this contract for the purpose of making audits, examinations, excerpts, and transcripts.

If an audit discloses that payments to the Agency were in excess of the amount to which the Agency was entitled, then the Agency shall repay the amount of the excess to the County.

III. MANNER OF PERFORMANCE

- A. Compliance with Applicable Laws and Regulations. The Agency shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this contract.

When a requirement is listed both in the main boilerplate of the contract and in an Exhibit, the Exhibit shall take precedence.

- B. Special Federal Requirements: Older Americans Act of 1965, as amended in 2006. Common rule restricts lobbying (Volume 56, NO38 of Fed. Register, Feb. 1990).
- C. Agency shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from the County. Agency shall submit copies of final subcontracts to County for approval before disbursing any County funds to subcontractors to provide services under this contract.

Agency may only assign this contract to a parent or affiliated company without prior written approval of County (which shall be attached to the original contract) and subject to such conditions and provisions as County may deem necessary. No such approval by County of any assignment shall be deemed in any event or in any manner to provide for the incurrence of any obligation of County in addition to the total agreed upon price.

- D. Agency certifies that it is an independent contractor and not an employee or agent of the County, State, or Federal Government. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of the Agency.

- E. Confidentiality. All information as to personal facts and circumstances about clients obtained by the Agency shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, his or her attorney, the responsible parent of a minor child, or his or her guardian except as required by other terms of this contract. Nothing prohibits the disclosure of information in summaries, statistical, or other form which does not identify particular individuals.

The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this contract. Confidentiality policies shall be applied to all requests from outside sources. The ADS, the Division, the Agency and subcontractor, if there is one, will share information as necessary to effectively serve mutual clients.

IV. GENERAL CONDITIONS

- A. Indemnity. The AGENCY agrees to indemnify, save harmless and defend the COUNTY, its officers, commissioners, and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the negligent acts or omissions of the AGENCY or the AGENCY's employees.

- B. Insurance.

- 1. Commercial General Liability

- Required by COUNTY Not required by COUNTY

- Agency shall obtain, at Agency's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/\$2,000,000 general aggregate for the protection of the County, its officers, commissioners and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The County, at its option, may require a complete copy of the above policy.

2. Commercial Automobile Liability

Required by COUNTY

Not required by COUNTY

Agency shall also obtain, at Agency's expense, and keep in effect during the term of the contract, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000. The County, at its option, may require a complete copy of the above policy.

3. Additional Insurance Provisions. The insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its agents, officers, and employees" as an additional insured.

Such insurance shall provide sixty (60) day written notice to the County in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

4. Notice of Cancellation. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to the Clackamas County Purchasing Division. Any failure to comply with this provision will not affect the insurance coverage provided to the County. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.
5. Insurance Carrier Rating. Coverages provided by the Agency must be underwritten by an insurance company deemed reasonably acceptable by the County. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
6. Certificates of Insurance. As evidence of the insurance coverage required by this contract, the Agency shall furnish a Certificate of Insurance to Clackamas County. No contract shall be affected until the required certificates have been received, approved and accepted by the County. A renewal certificate will be sent to the Clackamas County Purchasing Division 10 days prior to coverage expiration.
7. Independent Contractor Status. The service or services to be rendered under this contract are those of an independent contractor. Agency is not an officer, employee or agent of the County as those terms are used in ORS 30.265.

8. Primary Coverage Clarification. Agency's coverage will be primary in the event of a loss that is the obligation of Agency's to indemnify pursuant to this Contract.
 9. Cross-Liability Clause. A cross-liability clause or separation of insured's condition will be included in all commercial general liability, professional liability, and errors and omissions policies required by this contract.
- C. Amendments. The terms of this contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by Agency and County.

Modification of the contract shall be mandatory under the following circumstances:

1. A significant change, as determined by County, in programs content or scope of work as described in the contract or RFP for awarding of this contract.
 2. A change in any of the General or Special Provisions.
- D. Termination. This contract may be terminated by mutual consent of both parties, or by either party, upon 30 days' notice, in writing or delivered by certified mail or in person.

The County may terminate this contract effective upon delivery of written notice to the Agency, or at such later date as may be established by the County, under any of the following conditions:

1. If County funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The contract may be modified to accommodate a reduction in funds.
2. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this contract.
3. If any license or certificate required by law or regulation to be held by the Agency to provide the services required by this contract is for any reason denied, revoked, or not renewed.
4. If Agency fails to provide services or reports as specified by the County in this contract.

5. If Agency fails to comply with any requirements in this contract.

Contract parties hereto shall not be held responsible for delay or failure to perform hereunder when such delay or failure is due to fire, epidemic, strikes, disasters, hazardous weather conditions, public enemy, legal acts or public authorities, or delays or defaults caused by public carriers, which cannot reasonable be forecast or provided against.

Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

E. Oregon Public Contracting Provisions and Constitutional Limitations. Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.335 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this contract:

1. Agency shall:

- (a) Make payments promptly, as due, to all persons supplying to Agency labor or materials for the prosecution of the work provided for in this contract.
- (b) Pay all contributions or amounts due the Industrial Accident Fund from such Agency or subcontractor incurred in the performance of this agreement.
- (c) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (d) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

2. If Agency fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to Agency or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due Agency by reason of this agreement.

3. No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay: (a) for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or for

all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and (b) for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

In the case of contracts for personal services as described in ORS 279A.055, employees shall be paid at least time and one-half for all overtime worked in excess of 40 hours in any one week, except for individuals who are excluded under ORS 653.010 to 653.261 or under 29 USC Section 201 to 209 from receiving overtime.

4. Agency shall promptly, as due, make payment to any person or partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention incident to sickness and injury to the employees of Agency, of all sums which Agency agrees to pay for the services and all moneys and sums that Agency collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.
 5. Agency, if it is an employer of one or more workers subject to workers' compensation coverage under ORS Chapter 656, shall qualify as an insured employer under ORS 656.017 or as an exempt employer under ORS 656.126. Agency shall maintain employer liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.
 6. This contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- F. Contract Personnel. Agency shall have, or secure, all personnel required in performing the work and services under this contract. Further, Agency specifically agrees that its agents or employees shall possess the experience, knowledge, and skills to qualify them individually for the particular duties they perform.
1. Agency shall maintain a documented system of personnel policies and procedures that shall include, but not be limited to, an orderly system for hiring, dismissal, promotion, layoff, salary increase, fringe benefits, vacation, salary classification plan, affirmative action and other related personnel practices. A copy of the policies and procedures shall be made available to County upon request.

2. Agency shall assure that safe and healthy working conditions exist at all worksites in compliance with the Oregon Safe Employment Act and rules promulgated there under.
3. Agency's employees, volunteers or agents performing under this contract are not deemed to be employees of County in any manner whatsoever. Employees of Agency shall not be entitled to any other benefits except those provided by Agency. Agency is solely and entirely responsible for its acts and acts of its agents, employees or volunteers.
4. Agency shall maintain the following minimum standards with regard to wages and benefits for all employees:
 - a. All employees shall receive wages and benefits which are equal to the wages and benefits required by applicable state and federal laws.
 - b. Agency shall provide personnel administration based on merit principles and methods governing the appointment, promotion, transfer, layoff, removal and discipline of its employees, and other aspects of employment. All appointments and promotions shall be made on the basis of merit and fitness, as determined by a valid, reliable, competitive process.

G. Participant Rights

1. Client Confidentiality. All information as to personal facts and circumstances about clients obtained by the Agency shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, his or her attorney, the responsible parent of a minor child, or his or her guardian except as required by other terms of this contract. Nothing prohibits the disclosure of information in summaries, statistical, or other form which does not identify particular individuals.

The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this contract. Confidentiality policies shall be applied to all requests from outside sources. The ADS, the Division, the Agency and subcontractor, if there is one, will share information as necessary to effectively serve mutual clients.

2. Grievance. Agency shall comply with County Client Grievance Procedure as follows:

Any person with a complaint regarding services delivered under this contract shall report it to the meal site manager who will get full details. The meal site manager shall notify Agency and County of the nature of the complaint. Agency shall either take prompt, appropriate, corrective action or shall

promptly provide County with a factual explanation of the situation and potential solutions for resolution. County shall mediate all disputes as necessary and shall notify the complainant of the response or corrective action resolving the complaint.

3. **Discrimination Prohibited.** It shall be a policy of the Agency that it shall not discriminate in admission, accessibility, treatment or employment in its programs, activities and facilities on the basis of race, creed, color, sex, age, ancestry, national origin, religion or disability. Agency, and any party with which it enters into formal agreements, will comply with all requirements imposed by and pursuant to the regulations of Title VI of the Civil Rights Act of 1964, as amended, and Section 504 of the Rehabilitation Act of 1973.

- H. **Future Support.** The County makes no commitment of future support and assumes no obligation for future support of the activity contracted herein except as set forth in this contract.

- I. Integration. This contract contains the entire agreement between the County and the Agency and supersedes all prior written or oral discussions or agreements. This contract consists of four sections plus the following attachments which by this reference are incorporated herein:

Exhibit 1 Scope of Work and Performance Standards and Guidelines
Exhibit 2 Reporting Requirements
Exhibit 3 Budget and Units of Service
Exhibit 4 AGENCY Information

V. SIGNATURES

AGENCY

Compass Group USA, Inc., dba
BATEMAN



By
Magi Brettler
Name

Regional Vice President - Bateman
Title

6/24/2016

Date

101 Pine Park Drive
Street Address

Lafayette, LA 70508
City/Zip

(337) 593-0433 (337) 593-0434
Phone Number Fax

56-1874931
Tax ID Number

61-170-1327
DUNS Number

CLACKAMAS COUNTY

Commissioner John Ludlow, Chair
Commissioner Jim Bernard
Commissioner Paul Savas
Commissioner Martha Schrader
Commissioner Tootie Smith

Signing on Behalf of the Board

Richard Swift, Director
Health, Housing, & Human Services

Date