

 <p>Washington State Department of Social &amp; Health Services</p> <p>Transforming lives</p>	<h2>SERVICES CONTRACT</h2> <h3>Interpreter Referral Services</h3>	DSHS Contract Number: 2435-56553 Resulting From Procurement Number: 2334-834	
This Contract is between the state of Washington Department of Social and Health Services (DSHS) and the Contractor identified below, and is governed by chapter 39.26 RCW.		Program Contract Number:  Contractor Contract Number:	
CONTRACTOR NAME Universal Language Service, Inc.		CONTRACTOR doing business as (DBA)	
CONTRACTOR ADDRESS 925 110th Ave NE Ste A Bellevue, WA 98004		WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI) 601-771-713	DSHS INDEX NUMBER  66183
CONTRACTOR CONTACT Elena Vasiliev	CONTRACTOR TELEPHONE (888) 462-0500	CONTRACTOR FAX (425) 454-3635	CONTRACTOR E-MAIL ADDRESS management@ulsonline.net
DSHS ADMINISTRATION Aging & Long Term Support Admin	DSHS DIVISION Office of the Deaf and Hard of Hearing	DSHS CONTRACT CODE 1900PC-35	
DSHS CONTACT NAME AND TITLE Berle Ross Program Manager		DSHS CONTACT ADDRESS 14th and Jefferson Street Olympia, WA 98504	
DSHS CONTACT TELEPHONE (360)339-4559	DSHS CONTACT FAX	DSHS CONTACT E-MAIL ADDRESS rossbee@dshs.wa.gov	
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT? No		ASSISTANCE LISTING NUMBER(S)	
CONTRACT START DATE 07/01/2024	CONTRACT END DATE 05/31/2027	CONTRACT MAXIMUM AMOUNT Fee For Service	
<b>EXHIBITS. The following Exhibits are attached and are incorporated into this Contract by reference:</b> <input checked="" type="checkbox"/> Exhibits (specify): Exhibit A - Data Security Requirements <input type="checkbox"/> No Exhibits.			
The terms and conditions of this Contract are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise, regarding the subject matter of this Contract. The parties signing below represent that they have read and understand this Contract, and have the authority to execute this Contract. This Contract shall be binding on DSHS only upon signature by DSHS.			
CONTRACTOR SIGNATURE  <small>DocuSigned by: Elena Vasiliev 8346C7337B924F3...</small>	PRINTED NAME AND TITLE Elena Vasiliev, CEO		DATE SIGNED 7/1/2024
DSHS SIGNATURE 	PRINTED NAME AND TITLE Caleb Clark, Contracts Consultant		DATE SIGNED 01JUL2024

## DSHS General Terms and Conditions

1. **Definitions.** The words and phrases listed below, as used in this Contract, shall each have the following definitions:
- a. "Central Contracts and Legal Services" means the DSHS central headquarters contracting office, or successor section or office.
  - b. "Confidential Information" or "Data" means information that is exempt from disclosure to the public or other unauthorized persons under RCW 42.56 or other federal or state laws. Confidential Information includes, but is not limited to, Personal Information.
  - c. "Contract" or "Agreement" means the entire written agreement between DSHS and the Contractor, including any Exhibits, documents, or materials incorporated by reference. The parties may execute this contract in multiple counterparts, each of which is deemed an original and all of which constitute only one agreement. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
  - d. "CCLS Chief" means the manager, or successor, of Central Contracts and Legal Services or successor section or office.
  - e. "Contractor" means the individual or entity performing services pursuant to this Contract and includes the Contractor's owners, members, officers, directors, partners, employees, and/or agents, unless otherwise stated in this Contract. For purposes of any permitted Subcontract, "Contractor" includes any Subcontractor and its owners, members, officers, directors, partners, employees, and/or agents.
  - f. "Debarment" means an action taken by a Federal agency or official to exclude a person or business entity from participating in transactions involving certain federal funds.
  - g. "DSHS" or the "Department" means the state of Washington Department of Social and Health Services and its employees and authorized agents.
  - h. "Encrypt" means to encode Confidential Information into a format that can only be read by those possessing a "key;" a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 256 bits for symmetric keys, or 2048 bits for asymmetric keys. When a symmetric key is used, the Advanced Encryption Standard (AES) must be used if available.
  - i. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, Social Security Numbers, driver license numbers, other identifying numbers, and any financial identifiers.
  - j. "Physically Secure" means that access is restricted through physical means to authorized individuals only.
  - k. "Program Agreement" means an agreement between the Contractor and DSHS containing special terms and conditions, including a statement of work to be performed by the Contractor and payment to be made by DSHS.
  - l. "RCW" means the Revised Code of Washington. All references in this Contract to RCW chapters or sections shall include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at <http://apps.leg.wa.gov/rcw/>.

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- m. "Regulation" means any federal, state, or local regulation, rule, or ordinance.
  - n. "Secured Area" means an area to which only authorized representatives of the entity possessing the Confidential Information have access. Secured Areas may include buildings, rooms or locked storage containers (such as a filing cabinet) within a room, as long as access to the Confidential Information is not available to unauthorized personnel.
  - o. "Subcontract" means any separate agreement or contract between the Contractor and an individual or entity ("Subcontractor") to perform all or a portion of the duties and obligations that the Contractor is obligated to perform pursuant to this Contract.
  - p. "Tracking" means a record keeping system that identifies when the sender begins delivery of Confidential Information to the authorized and intended recipient, and when the sender receives confirmation of delivery from the authorized and intended recipient of Confidential Information.
  - q. "Trusted Systems" include only the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service ("USPS") first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.
  - r. "WAC" means the Washington Administrative Code. All references in this Contract to WAC chapters or sections shall include any successor, amended, or replacement regulation. Pertinent WAC chapters or sections can be accessed at <http://apps.leg.wa.gov/wac/>.
- 2. Amendment.** This Contract may only be modified by a written amendment signed by both parties. Only personnel authorized to bind each of the parties may sign an amendment.
- 3. Assignment.** The Contractor shall not assign this Contract or any Program Agreement to a third party without the prior written consent of DSHS.
- 4. Billing Limitations.**
- a. DSHS shall pay the Contractor only for authorized services provided in accordance with this Contract.
  - b. DSHS shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were performed.
  - c. The Contractor shall not bill and DSHS shall not pay for services performed under this Contract, if the Contractor has charged or will charge another agency of the state of Washington or any other party for the same services.
- 5. Compliance with Applicable Law and Washington State Requirements.**
- a. **Applicable Law.** Throughout the performance of this Agreement, Contractor shall comply with all federal, state, and local laws, regulations, and executive orders to the extent they are applicable to this Agreement.
  - b. **Civil Rights and Nondiscrimination.** Contractor shall comply with all federal and state civil rights and nondiscrimination laws, regulations, and executive orders to the extent they are applicable to

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this Agreement, including, but not limited to, and as amended, Titles VI and VII of the Civil Rights Act of 1964; Sections 503 and 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act (ADA); Executive Order 11246; the Health Insurance Portability and Accountability Act of 1996 (HIPAA); the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, and Chapter 49.60 of the Revised Code of Washington, Washington's Law Against Discrimination. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated.

In the event of the Contractor's noncompliance or refusal to comply with any applicable nondiscrimination laws, regulations, and executive orders, this Agreement may be rescinded, canceled, or terminated in whole or in part.

### c. **Nondiscrimination.**

(1) **Nondiscrimination Requirement.** During the term of this Contract, Contractor, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Contractor, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.

(2) **Obligation to Cooperate.** Contractor, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).

d. **Certification Regarding Russian Government Contracts and/or Investments.** Contractor shall abide by the requirements of Governor Jay Inslee's Directive 22-03 and all subsequent amendments. The Contractor, by signature to this Contract, certifies that the Contractor is not presently an agency of the Russian government, an entity which is Russian-state owned to any extent, or an entity sanctioned by the United States government in response to Russia's invasion of Ukraine. The Contractor also agrees to include the above certification in any and all Subcontracts into which it enters. The Contractor shall immediately notify DSHS if, during the term of this Contract, Contractor does not comply with this certification. DSHS may immediately terminate this Contract by providing Contractor written notice if Contractor does not comply with this certification during the term hereof.

## 6. **Confidentiality.**

a. The Contractor shall not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this Contract for any purpose that is not directly connected with Contractor's performance of the services contemplated hereunder, except:

(1) as provided by law; or,

(2) in the case of Personal Information, with the prior written consent of the person or personal representative of the person who is the subject of the Personal Information.

b. The Contractor shall protect and maintain all Confidential Information gained by reason of this Contract against unauthorized use, access, disclosure, modification or loss. This duty requires the Contractor to employ reasonable security measures, which include restricting access to the Confidential Information by:

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- (1) Allowing access only to staff that have an authorized business requirement to view the Confidential Information.
- (2) Physically Securing any computers, documents, or other media containing the Confidential Information.
- (3) Ensure the security of Confidential Information transmitted via fax (facsimile) by:
  - (a) Verifying the recipient phone number to prevent accidental transmittal of Confidential Information to unauthorized persons.
  - (b) Communicating with the intended recipient before transmission to ensure that the fax will be received only by an authorized person.
  - (c) Verifying after transmittal that the fax was received by the intended recipient.
- (4) When transporting six (6) or more records containing Confidential Information, outside a Secured Area, do one or more of the following as appropriate:
  - (a) Use a Trusted System.
  - (b) Encrypt the Confidential Information, including:
    - i. Encrypting email and/or email attachments which contain the Confidential Information.
    - ii. Encrypting Confidential Information when it is stored on portable devices or media, including but not limited to laptop computers and flash memory devices.

**Note: If the DSHS Data Security Requirements Exhibit is attached to this contract, this item, 6.b.(4), is superseded by the language contained in the Exhibit.**

- (5) Send paper documents containing Confidential Information via a Trusted System.
  - (6) Following the requirements of the DSHS Data Security Requirements Exhibit, if attached to this contract.
- c. Upon request by DSHS, at the end of the Contract term, or when no longer needed, Confidential Information shall be returned to DSHS or Contractor shall certify in writing that they employed a DSHS approved method to destroy the information. Contractor may obtain information regarding approved destruction methods from the DSHS contact identified on the cover page of this Contract.
  - d. Paper documents with Confidential Information may be recycled through a contracted firm, provided the contract with the recycler specifies that the confidentiality of information will be protected, and the information destroyed through the recycling process. Paper documents containing Confidential Information requiring special handling (e.g. protected health information) must be destroyed on-site through shredding, pulping, or incineration.
  - e. Notification of Compromise or Potential Compromise. The compromise or potential compromise of Confidential Information must be reported to the DSHS Contact designated on the contract within one (1) business day of discovery. Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.
- 7. Debarment Certification.** The Contractor, by signature to this Contract, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded



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by any Federal department or agency from participating in transactions (Debarred). The Contractor also agrees to include the above requirement in any and all Subcontracts into which it enters. The Contractor shall immediately notify DSHS if, during the term of this Contract, Contractor becomes Debarred. DSHS may immediately terminate this Contract by providing Contractor written notice if Contractor becomes Debarred during the term hereof.

8. **E-Signature and Records.** An electronic signature or electronic record of this Contract or any other ancillary agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this Contract or such other ancillary agreement for all purposes.
9. **Governing Law and Venue.** This Contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in Superior Court for Thurston County.
10. **Independent Contractor.** The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and his or her employees or agents performing under this Contract are not employees or agents of the Department. The Contractor, his or her employees, or agents performing under this Contract will not hold himself/herself out as, nor claim to be, an officer or employee of the Department by reason hereof, nor will the Contractor, his or her employees, or agent make any claim of right, privilege or benefit that would accrue to such officer or employee.
11. **Inspection.** The Contractor shall, at no cost, provide DSHS and the Office of the State Auditor with reasonable access to Contractor's place of business, Contractor's records, and DSHS client records, wherever located. These inspection rights are intended to allow DSHS and the Office of the State Auditor to monitor, audit, and evaluate the Contractor's performance and compliance with applicable laws, regulations, and these Contract terms. These inspection rights shall survive for six (6) years following this Contract's termination or expiration.
12. **Maintenance of Records.** The Contractor shall maintain records relating to this Contract and the performance of the services described herein. The records include, but are not limited to, accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. All records and other material relevant to this Contract shall be retained for six (6) years after expiration or termination of this Contract.  
  
Without agreeing that litigation or claims are legally authorized, if any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
13. **Order of Precedence.** In the event of any inconsistency or conflict between the General Terms and Conditions and the Special Terms and Conditions of this Contract or any Program Agreement, the inconsistency or conflict shall be resolved by giving precedence to these General Terms and Conditions. Terms or conditions that are more restrictive, specific, or particular than those contained in the General Terms and Conditions shall not be construed as being inconsistent or in conflict.
14. **Severability.** If any term or condition of this Contract is held invalid by any court, the remainder of the Contract remains valid and in full force and effect.
15. **Survivability.** The terms and conditions contained in this Contract or any Program Agreement which, by their sense and context, are intended to survive the expiration or termination of the particular agreement shall survive. Surviving terms include, but are not limited to: Billing Limitations; Confidentiality, Disputes; Indemnification and Hold Harmless, Inspection, Maintenance of Records, Notice of Overpayment, Ownership of Material, Termination for Default, Termination Procedure, and Treatment of Property.

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### 16. Contract Renegotiation, Suspension, or Termination Due to Change in Funding.

If the funds DSHS relied upon to establish this Contract or Program Agreement are withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, after the effective date of this contract but prior to the normal completion of this Contract or Program Agreement:

- a. At DSHS's discretion, the Contract or Program Agreement may be renegotiated under the revised funding conditions.
- b. At DSHS's discretion, DSHS may give notice to Contractor to suspend performance when DSHS determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this contract.
  - (1) During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.
  - (2) When DSHS determines that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to DSHS informing DSHS whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.
  - (3) If the Contractor's proposed resumption date is not acceptable to DSHS and an acceptable date cannot be negotiated, DSHS may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the retroactive date of termination.
- c. DSHS may immediately terminate this Contract by providing written notice to the Contractor. The termination shall be effective on the date specified in the termination notice. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty shall accrue to DSHS in the event the termination option in this section is exercised.

17. **Waiver.** Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Contract. Only the CCLS Chief or designee has the authority to waive any term or condition of this Contract on behalf of DSHS.

### Additional General Terms and Conditions – Professional Service Contracts:

18. **Advance Payment.** DSHS shall not make any payments in advance or anticipation of the delivery of services to be provided pursuant to this Contract.
19. **Construction.** The language in this Contract shall be interpreted as to its fair meaning and not strictly for or against any party. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Contract.
20. **Contractor Certification Regarding Ethics.** The Contractor certifies that the Contractor is now, and shall remain, in compliance with Chapter 42.52 RCW, Ethics in Public Service, throughout the term of this Contract.

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- 21. DES Filing Requirement.** Under RCW 39.26, sole source contracts and amendments must be filed with the State of Washington Department of Enterprise Services (DES). If this Contract is one that must be filed, it shall not be effective nor shall work commence or payment be made until the tenth (10th) working day following the date of filing subject to DES approval. In the event DES fails to approve the Contract or any amendment hereto, the Contract or amendment shall be null and void.
- 22. Health and Safety.** Contractor shall perform any and all of its obligations under this Contract in a manner that does not compromise the health and safety of any DSHS client with whom the Contractor has contact.
- 23. Indemnification and Hold Harmless.**
- The Contractor shall be responsible for and shall indemnify, defend, and hold DSHS harmless from any and all claims, costs, charges, penalties, demands, losses, liabilities, damages, judgments, or fines, of whatsoever kind of nature, arising out of or relating to a) the Contractor's or any Subcontractor's performance or failure to perform this Contract, or b) the acts or omissions of the Contractor or any Subcontractor.
  - The Contractor's duty to indemnify, defend, and hold DSHS harmless from any and all claims, costs, charges, penalties, demands, losses, liabilities, damages, judgments, or fines shall include DSHS' personnel-related costs, reasonable attorney's fees, court costs, and all related expenses.
  - The Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the State and its agencies, officials, agents, or employees.
  - Nothing in this term shall be construed as a modification or limitation on the Contractor's obligation to procure insurance in accordance with this Contract or the scope of said insurance.
- 24. Industrial Insurance Coverage.** The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, Agency may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. The Agency may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by the Agency under this contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.
- 25. Publicity.** The Contractor shall not name DSHS as a customer, nor use any information related to this Contract, in any format or media, in any Contractor's advertising or publicity without prior written consent from DSHS.
- 26. Notice of Overpayment.** If the Contractor receives a vendor overpayment notice or a letter communicating the existence of an overpayment from DSHS, the Contractor may protest the overpayment determination by requesting an adjudicative proceeding. The Contractor's request for an adjudicative proceeding must:
- Be *received* by the Office of Financial Recovery (OFR) at Post Office Box 9501, Olympia, Washington 98507-9501, within twenty-eight (28) calendar days of service of the notice;
  - Be sent by certified mail (return receipt) or other manner that proves OFR received the request;
  - Include a statement as to why the Contractor thinks the notice is incorrect; and



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- d. Include a copy of the overpayment notice.

Timely and complete requests will be scheduled for a formal hearing by the Office of Administrative Hearings. The Contractor may be offered a pre-hearing or alternative dispute resolution conference in an attempt to resolve the overpayment dispute prior to the hearing.

Failure to provide OFR with a written request for a hearing within twenty-eight (28) days of service of a vendor overpayment notice or other overpayment letter will result in an overpayment debt against the Contractor. DSHS may charge the Contractor interest and any costs associated with the collection of this overpayment. DSHS may collect an overpayment debt through lien, foreclosure, seizure and sale of the Contractor's real or personal property; order to withhold and deliver; or any other collection action available to DSHS to satisfy the overpayment debt.

- 27. Site Security.** While providing services at a DSHS location, the Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations specific to the DSHS location.
- 28. Subcontracting.** Except as otherwise provided in this Contract, the Contractor shall not Subcontract any of the contracted services without the prior written approval of DSHS. Contractor is responsible to ensure that all terms, conditions, assurances and certifications set forth in this Contract are included in any and all Subcontracts. Any failure of Contractor or its Subcontractors to perform the obligations of this Contract shall not discharge the Contractor from its obligations hereunder or diminish DSHS' rights or remedies available under this Contract.
- 29. Subrecipients.**
- a. General. If the Contractor is a subrecipient of federal awards as defined by 2 CFR Part 200 and this Agreement, the Contractor shall:
- (1) Maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity;
  - (2) Maintain internal controls that provide reasonable assurance that the Contractor is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs;
  - (3) Prepare appropriate financial statements, including a schedule of expenditures of federal awards;
  - (4) Incorporate 2 CFR Part 200, Subpart F audit requirements into all agreements between the Contractor and its Subcontractors who are subrecipients;
  - (5) Comply with the applicable requirements of 2 CFR Part 200, including any future amendments to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) Circular or regulation; and
  - (6) Comply with the Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39. (Go to <https://ojp.gov/about/offices/ocr.htm> for additional information and access to the aforementioned

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Federal laws and regulations.)

- b. **Single Audit Act Compliance.** If the Contractor is a subrecipient and expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year, the Contractor shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Contractor shall:
  - (1) Submit to the DSHS contact person the data collection form and reporting package specified in 2 CFR Part 200, Subpart F, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor;
  - (2) Follow-up and develop corrective action for all audit findings; in accordance with 2 CFR Part 200, Subpart F; prepare a "Summary Schedule of Prior Audit Findings" reporting the status of all audit findings included in the prior audit's schedule of findings and questioned costs.
- c. **Overpayments.** If it is determined by DSHS, or during the course of a required audit, that the Contractor has been paid unallowable costs under this or any Program Agreement, DSHS may require the Contractor to reimburse DSHS in accordance with 2 CFR Part 200.

**30. Termination for Convenience.** DSHS may terminate this Contract in whole or in part when it is in the best interest of DSHS by giving the Contractor at least thirty (30) calendar days' written notice.

**31. Termination for Default.** The CCLS Chief may immediately terminate this Contract for default, in whole or in part, by written notice to the Contractor if DSHS has a reasonable basis to believe that the Contractor has:

- a. Failed to meet or maintain any requirement for contracting with DSHS;
- b. Failed to protect the health or safety of any DSHS client;
- c. Failed to perform under, or otherwise breached, any term or condition of this Contract; and/or
- d. Violated any applicable law or regulation.

If it is later determined that the Contractor was not in default, the termination shall be considered a termination for convenience.

**32. Termination or Expiration Procedure.** The following terms and conditions apply upon Contract termination or expiration:

- a. The Contractor shall cease to perform any services required by this Contract as of the effective date of termination or expiration.
- b. If the Contract is terminated, the Contractor shall comply with all instructions contained in the termination notice.
- c. The Contractor shall immediately deliver to the DSHS contact named on page one of this Contract, or to his or her successor, all DSHS property in the Contractor's possession. The Contractor grants DSHS the right to enter upon the Contractor's premises for the sole purpose of recovering any DSHS property that the Contractor fails to return within ten (10) calendar days of the effective date of termination or expiration of this Contract. Upon failure to return DSHS property within ten (10) calendar days, the Contractor shall be charged with all reasonable costs of recovery, including transportation.

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- d. DSHS shall be liable only for payment required under the terms of this Contract for service rendered up to the effective date of termination or expiration.
- e. DSHS may withhold a sum from the final payment to the Contractor that DSHS determines necessary to protect DSHS against loss or additional liability.
- f. The rights and remedies provided to DSHS in this Section are in addition to any other rights and remedies provided at law, in equity, and/or under this Contract, including consequential and incidental damages.

**33. Treatment of Property.** All property purchased or furnished by DSHS for use by the Contractor during this Contract term shall remain with DSHS. Title to all property purchased or furnished by the Contractor for which the Contractor is entitled to reimbursement by DSHS under this Contract shall pass to and vest in DSHS. The Contractor shall protect, maintain, and insure all DSHS property in its possession against loss or damage and shall return DSHS property to DSHS upon Contract termination or expiration.

**34. Taxes.**

- a. Where required by statute or regulation, Contractor shall pay for and maintain in current status all taxes that are necessary for Contract performance. DSHS will pay sales or use taxes, if any, imposed on the services and materials acquired hereunder. Contractor must pay all other taxes including without limitation Washington Business and Occupation Tax, other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property. DSHS, as an agency of Washington State government, is exempt from property tax.
- b. Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract in accordance with the requirements of [Title 82 RCW](#) and [Title 458 WAC](#). Out-of-state Contractors must contact the Department of Revenue to determine whether they meet criteria to register and establish an account with the Department of Revenue. Refer to WAC 458-20-101 (Tax registration and tax reporting) and call the Department of Revenue at 800-647-7706 for additional information. When out-of-state Contractors are not required to collect and remit sales tax, DSHS shall be responsible for paying use tax, if applicable, directly to the Department of Revenue.
- c. All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for Contractor or Contractor's staff shall be Contractor's sole responsibility.

**35. Preventing Disruption of Adult Care, Mental Health, Addiction, Disability Support, or Youth Services Due to Labor Management Disputes and Employee Unrest.**

Washington law requires that all services, direct or ancillary, for adult care, mental health, addiction, disability support, and youth services, be warranted by the Contractor providing those services against disruption. Contractor and DSHS agree that disruptions to these services such as strikes, walk-offs, sick-ins, slowdowns, or any other such action designed to pressure Contractor's management to meet labor, workforce, or subcontractor demands ("Economic or Industrial Action") are covered under this warranty.

If this Contract includes adult care, mental health, addiction, disability support, or youth services, Contractor agrees to execute and maintain one or more of the following mandatory contractual commitments through the life of the Contract:

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- a. An agreement between the Contractor and any exclusive representative labor organization representing the employees performing the contracted services. This agreement must contain a provision prohibiting Economic or Industrial Action on the part of all parties. This agreement must also include a process for the resolution of disputes between them; or
- b. An agreement between the Contractor and any labor organization seeking to represent the employees performing the contracted services. This agreement must contain a provision prohibiting the parties from causing, promoting, or encouraging Economic or Industrial Action, or other disruptive activity. This agreement must also include a process for resolution of disputes between parties.

Contractor must notify DSHS if it is unable to form a compliant agreement with a labor organization within 30 days of executing this Contract.

If services under this Contract are interrupted due to Contractor's failure to maintain one or more of the required contractual commitments listed above, DSHS may immediately terminate, suspend, or revoke this Contract for default, and arrange for the provision of services by other means. Contractor shall provide reimbursement of the actual costs to DSHS arising out of the inadequacy of the warranty provided by the Contractor.

### **36. Mandatory Individual Arbitration and Class or Collective Action Waiver as a Condition of Employment.**

- a. "Mandatory Individual Arbitration Clause" or "Class or Collective Action Waiver" means an arbitration clause or waiver in an employment contract which precludes Contractor's employees from resolving employment disputes with their employer through class or collective proceedings in federal court. Instead, employees must bring individualized arbitration proceedings against their employer to resolve any employment disputes.
- b. The Contractor, by signature to this Contract, certifies that the Contractor does not require Contractor's employees to agree to, as a condition of employment, a Mandatory Individual Arbitration Clause or Class or Collective Action Waiver.
- c. Contractor must notify DSHS within ten (10) business days if, during the term of this Contract, Contractor requires Contractor's employees to agree to, as a condition of employment, a Mandatory Individual Arbitration Clause or Class or Collective Action Waiver.
- d. If Contractor, during the term of this contract, requires Contractor's employees to agree to, as a condition of employment, a Mandatory Individual Arbitration Clause or Class or Collective Action Waiver, DSHS reserves the right to terminate this contract, per the General Terms and Conditions Section regarding Termination for Convenience.

## HIPAA Compliance

Preamble: This section of the Contract is the Business Associate Agreement as required by HIPAA.

### **37. Definitions**

- a. "Business Associate," as used in this Contract, means the "Contractor" and generally has the same meaning as the term "business associate" at 45 CFR 160.103. Any reference to Business Associate in this Contract includes Business Associate's employees, agents, officers, Subcontractors, third party contractors, volunteers, or directors.

## DSHS General Terms and Conditions

- b. "Business Associate Agreement" means this HIPAA Compliance section of the Contract and includes the Business Associate provisions required by the U.S. Department of Health and Human Services, Office for Civil Rights.
- c. "Breach" means the acquisition, access, use, or disclosure of Protected Health Information in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the Protected Health Information, with the exclusions and exceptions listed in 45 CFR 164.402.
- d. "Covered Entity" means DSHS, a Covered Entity as defined at 45 CFR 160.103, in its conduct of covered functions by its health care components.
- e. "Designated Record Set" means a group of records maintained by or for a Covered Entity, that is: the medical and billing records about Individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or Used in whole or part by or for the Covered Entity to make decisions about Individuals.
- f. "Electronic Protected Health Information (EPHI)" means Protected Health Information that is transmitted by electronic media or maintained in any medium described in the definition of electronic media at 45 CFR 160.103.
- g. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as modified by the American Recovery and Reinvestment Act of 2009 ("ARRA"), Sec. 13400 – 13424, H.R. 1 (2009) (HITECH Act).
- h. "HIPAA Rules" means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and Part 164.
- i. "Individual(s)" means the person(s) who is the subject of PHI and includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- j. "Minimum Necessary" means the least amount of PHI necessary to accomplish the purpose for which the PHI is needed.
- k. "Protected Health Information (PHI)" means individually identifiable health information created, received, maintained or transmitted by Business Associate on behalf of a health care component of the Covered Entity that relates to the provision of health care to an Individual; the past, present, or future physical or mental health or condition of an Individual; or the past, present, or future payment for provision of health care to an Individual. 45 CFR 160.103. PHI includes demographic information that identifies the Individual or about which there is reasonable basis to believe can be used to identify the Individual. 45 CFR 160.103. PHI is information transmitted or held in any form or medium and includes EPHI. 45 CFR 160.103. PHI does not include education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USCA 1232g(a)(4)(B)(iv) or employment records held by a Covered Entity in its role as employer.
- l. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system.
- m. "Subcontractor" as used in this HIPAA Compliance section of the Contract (in addition to its definition in the General Terms and Conditions) means a Business Associate that creates, receives, maintains, or transmits Protected Health Information on behalf of another Business Associate.



## DSHS General Terms and Conditions

- n. "Use" includes the sharing, employment, application, utilization, examination, or analysis, of PHI within an entity that maintains such information.
- 38. Compliance.** Business Associate shall perform all Contract duties, activities and tasks in compliance with HIPAA, the HIPAA Rules, and all attendant regulations as promulgated by the U.S. Department of Health and Human Services, Office of Civil Rights.
- 39. Use and Disclosure of PHI.** Business Associate is limited to the following permitted and required uses or disclosures of PHI:
- a. **Duty to Protect PHI.** Business Associate shall protect PHI from, and shall use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 (Security Standards for the Protection of Electronic Protected Health Information) with respect to EPHI, to prevent the unauthorized Use or disclosure of PHI other than as provided for in this Contract or as required by law, for as long as the PHI is within its possession and control, even after the termination or expiration of this Contract.
  - b. **Minimum Necessary Standard.** Business Associate shall apply the HIPAA Minimum Necessary standard to any Use or disclosure of PHI necessary to achieve the purposes of this Contract. See 45 CFR 164.514 (d)(2) through (d)(5).
  - c. **Disclosure as Part of the Provision of Services.** Business Associate shall only Use or disclose PHI as necessary to perform the services specified in this Contract or as required by law, and shall not Use or disclose such PHI in any manner that would violate Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information) if done by Covered Entity, except for the specific uses and disclosures set forth below.
  - d. **Use for Proper Management and Administration.** Business Associate may Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
  - e. **Disclosure for Proper Management and Administration.** Business Associate may disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached.
  - f. **Impermissible Use or Disclosure of PHI.** Business Associate shall report to DSHS in writing all Uses or disclosures of PHI not provided for by this Contract within one (1) business day of becoming aware of the unauthorized Use or disclosure of PHI, including Breaches of unsecured PHI as required at 45 CFR 164.410 (Notification by a Business Associate), as well as any Security Incident of which it becomes aware. Upon request by DSHS, Business Associate shall mitigate, to the extent practicable, any harmful effect resulting from the impermissible Use or disclosure.
  - g. **Failure to Cure.** If DSHS learns of a pattern or practice of the Business Associate that constitutes a violation of the Business Associate's obligations under the terms of this Contract and reasonable steps by DSHS do not end the violation, DSHS shall terminate this Contract, if feasible. In addition, If Business Associate learns of a pattern or practice of its Subcontractors that constitutes a violation of the Business Associate's obligations under the terms of their contract and reasonable steps by the Business Associate do not end the violation, Business Associate shall terminate the Subcontract, if feasible.

## DSHS General Terms and Conditions

- h. Termination for Cause. Business Associate authorizes immediate termination of this Contract by DSHS, if DSHS determines that Business Associate has violated a material term of this Business Associate Agreement. DSHS may, at its sole option, offer Business Associate an opportunity to cure a violation of this Business Associate Agreement before exercising a termination for cause.
- i. Consent to Audit. Business Associate shall give reasonable access to PHI, its internal practices, records, books, documents, electronic data and/or all other business information received from, or created or received by Business Associate on behalf of DSHS, to the Secretary of DHHS and/or to DSHS for use in determining compliance with HIPAA privacy requirements.
- j. Obligations of Business Associate Upon Expiration or Termination. Upon expiration or termination of this Contract for any reason, with respect to PHI received from DSHS, or created, maintained, or received by Business Associate, or any Subcontractors, on behalf of DSHS, Business Associate shall:
  - (1) Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
  - (2) Return to DSHS or destroy the remaining PHI that the Business Associate or any Subcontractors still maintain in any form;
  - (3) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 (Security Standards for the Protection of Electronic Protected Health Information) with respect to Electronic Protected Health Information to prevent Use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate or any Subcontractors retain the PHI;
  - (4) Not Use or disclose the PHI retained by Business Associate or any Subcontractors other than for the purposes for which such PHI was retained and subject to the same conditions set out in the "Use and Disclosure of PHI" section of this Contract which applied prior to termination; and
  - (5) Return to DSHS or destroy the PHI retained by Business Associate, or any Subcontractors, when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- k. Survival. The obligations of the Business Associate under this section shall survive the termination or expiration of this Contract.

### 40. Individual Rights.

- a. Accounting of Disclosures.
  - (1) Business Associate shall document all disclosures, except those disclosures that are exempt under 45 CFR 164.528, of PHI and information related to such disclosures.
  - (2) Within ten (10) business days of a request from DSHS, Business Associate shall make available to DSHS the information in Business Associate's possession that is necessary for DSHS to respond in a timely manner to a request for an accounting of disclosures of PHI by the Business Associate. See 45 CFR 164.504(e)(2)(ii)(G) and 164.528(b)(1).
  - (3) At the request of DSHS or in response to a request made directly to the Business Associate by an Individual, Business Associate shall respond, in a timely manner and in accordance with HIPAA and the HIPAA Rules, to requests by Individuals for an accounting of disclosures of PHI.

## DSHS General Terms and Conditions

(4) Business Associate record keeping procedures shall be sufficient to respond to a request for an accounting under this section for the six (6) years prior to the date on which the accounting was requested.

b. Access

(1) Business Associate shall make available PHI that it holds that is part of a Designated Record Set when requested by DSHS or the Individual as necessary to satisfy DSHS's obligations under 45 CFR 164.524 (Access of Individuals to Protected Health Information).

(2) When the request is made by the Individual to the Business Associate or if DSHS asks the Business Associate to respond to a request, the Business Associate shall comply with requirements in 45 CFR 164.524 (Access of Individuals to Protected Health Information) on form, time and manner of access. When the request is made by DSHS, the Business Associate shall provide the records to DSHS within ten (10) business days.

c. Amendment.

(1) If DSHS amends, in whole or in part, a record or PHI contained in an Individual's Designated Record Set and DSHS has previously provided the PHI or record that is the subject of the amendment to Business Associate, then DSHS will inform Business Associate of the amendment pursuant to 45 CFR 164.526(c)(3) (Amendment of Protected Health Information).

(2) Business Associate shall make any amendments to PHI in a Designated Record Set as directed by DSHS or as necessary to satisfy DSHS's obligations under 45 CFR 164.526 (Amendment of Protected Health Information).

- 41. Subcontracts and other Third Party Agreements.** In accordance with 45 CFR 164.502(e)(1)(ii), 164.504(e)(1)(i), and 164.308(b)(2), Business Associate shall ensure that any agents, Subcontractors, independent contractors or other third parties that create, receive, maintain, or transmit PHI on Business Associate's behalf, enter into a written contract that contains the same terms, restrictions, requirements, and conditions as the HIPAA compliance provisions in this Contract with respect to such PHI. The same provisions must also be included in any contracts by a Business Associate's Subcontractor with its own business associates as required by 45 CFR 164.314(a)(2)(b) and 164.504(e)(5) .
- 42. Obligations.** To the extent the Business Associate is to carry out one or more of DSHS's obligation(s) under Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information), Business Associate shall comply with all requirements that would apply to DSHS in the performance of such obligation(s).
- 43. Liability.** Within ten (10) business days, Business Associate must notify DSHS of any complaint, enforcement or compliance action initiated by the Office for Civil Rights based on an allegation of violation of the HIPAA Rules and must inform DSHS of the outcome of that action. Business Associate bears all responsibility for any penalties, fines or sanctions imposed against the Business Associate for violations of the HIPAA Rules and for any imposed against its Subcontractors or agents for which it is found liable.
- 44. Breach Notification.**
- a. In the event of a Breach of unsecured PHI or disclosure that compromises the privacy or security of PHI obtained from DSHS or involving DSHS clients, Business Associate will take all measures required by state or federal law.

## DSHS General Terms and Conditions

- b. Business Associate will notify DSHS within one (1) business day by telephone and in writing of any acquisition, access, Use or disclosure of PHI not allowed by the provisions of this Contract or not authorized by HIPAA Rules or required by law of which it becomes aware which potentially compromises the security or privacy of the Protected Health Information as defined in 45 CFR 164.402 (Definitions).
- c. Business Associate will notify the DSHS Contact shown on the cover page of this Contract within one (1) business day by telephone or e-mail of any potential Breach of security or privacy of PHI by the Business Associate or its Subcontractors or agents. Business Associate will follow telephone or e-mail notification with a faxed or other written explanation of the Breach, to include the following: date and time of the Breach, date Breach was discovered, location and nature of the PHI, type of Breach, origination and destination of PHI, Business Associate unit and personnel associated with the Breach, detailed description of the Breach, anticipated mitigation steps, and the name, address, telephone number, fax number, and e-mail of the individual who is responsible as the primary point of contact. Business Associate will address communications to the DSHS Contact. Business Associate will coordinate and cooperate with DSHS to provide a copy of its investigation and other information requested by DSHS, including advance copies of any notifications required for DSHS review before disseminating and verification of the dates notifications were sent.
- d. If DSHS determines that Business Associate or its Subcontractor(s) or agent(s) is responsible for a Breach of unsecured PHI:
  - (1) requiring notification of Individuals under 45 CFR § 164.404 (Notification to Individuals), Business Associate bears the responsibility and costs for notifying the affected Individuals and receiving and responding to those Individuals' questions or requests for additional information;
  - (2) requiring notification of the media under 45 CFR § 164.406 (Notification to the media), Business Associate bears the responsibility and costs for notifying the media and receiving and responding to media questions or requests for additional information;
  - (3) requiring notification of the U.S. Department of Health and Human Services Secretary under 45 CFR § 164.408 (Notification to the Secretary), Business Associate bears the responsibility and costs for notifying the Secretary and receiving and responding to the Secretary's questions or requests for additional information; and
  - (4) DSHS will take appropriate remedial measures up to termination of this Contract.

### 45. Miscellaneous Provisions.

- a. Regulatory References. A reference in this Contract to a section in the HIPAA Rules means the section as in effect or amended.
- b. Interpretation. Any ambiguity in this Contract shall be interpreted to permit compliance with the HIPAA Rules.

## Special Terms and Conditions

1. **Definitions Specific to Special Terms.** The words and phrases listed below, as used in this Contract, shall each have the following definitions:
- a. "ADA" means the Americans with Disabilities Act.
  - b. "Appointment" means a period of time during which a Purchaser has requested sign language interpreting services. One (1) Appointment may span multiple consecutive Business Days. Specific types of Appointments are defined below:
    - (1) "Filled Appointment" means a Contractor has assigned one or more than one Interpreter to the Appointment and has confirmed this with the Purchaser.
    - (2) "Unfilled Appointment" means an Appointment for which the Contractor has tried and failed to schedule an Interpreter and has notified the Purchaser.
  - c. "Approved Interpreter" means an Interpreter who is registered with ODHH, has an active RID, BEI or QDI membership, has passed the DSHS background check screening, and is on the ODHH approved Interpreter List.
  - d. "Approved Interpreter Listing" means the list of Approved Interpreters that ODHH maintains which includes Interpreters' verified certifications and implemented rates, and which is posted on ODHH's public website.
  - e. "Base Rate" means the fee paid for the initial hour of an Appointment, which is the total of the Interpreters hourly rate plus one half of that rate, and which is paid in full even if the Appointment does not last one full hour.
  - f. "Board of Evaluation of Interpreters" or "BEI" means a state level Certification offered through the Office of Deaf and Hard of Hearing Services BEI in Texas.
  - g. "Booking Fee" means the fee paid by the Purchaser to the Contractor for an initial Appointment. The Booking Fee is per Interpreter and still billable if the Contractor booked an Interpreter, or more than one Interpreter, and the appointment was cancelled by the Purchaser.
  - h. "Business Address" means the Contractor's address listed in section 17 (Legal Notices) of this Contract. If section 16 lists an address that is not within the boundaries of Washington State, the Business Address is the Contractor's registered agent's address listed on the Washington Secretary of State's website.
  - i. "Business Day" means Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the State of Washington. One business day equals nine (9) business hours per day.
  - j. "Cancellation" means a Request that is cancelled by a Purchaser when the Purchaser's Appointment is no longer needed or must be rescheduled by the Purchaser. Only the Purchaser may cancel a Request, Interpreters may not cancel a Request.
  - k. "Certified Interpreter" or "Interpreter" means an individual who has a demonstrated ability to interpret effectively, accurately and impartially; and has been awarded an Interpreter certification by one or both of the following organizations:
    - (a) The Registry for Interpreters for the Deaf;



## Special Terms and Conditions

(b) BEI.

- l. "Close Vision Interpreting" refers to a method used with DeafBlind individuals who have low vision and rely on their residual vision for communication. Interpreters are situated in close proximity in front of the Customer.
- m. "Customer" means any person applying for, been determined eligible for, or receiving services from either or both DSHS and a State of Washington governmental entity.
- n. "Contracted Service Provider" means an individual or other business entity who, pursuant to a contract with the State of Washington, provides services or goods to a State agency or Customers.
- o. "Corrective Action Plan" means the detailed written plan required by DSHS or a Purchaser to correct any actions or inactions by the Contractor to prevent the Contractors future failure to comply with any obligation, term or condition set forth under the Contract.
- p. "Critical Event" means Interpretation Services that involve Purchaser services that are considered Public Assistance.
- q. "Deaf" is a broad term that generally describes people who have a severe to profound hearing loss. Deaf individuals may communicate in American Sign Language (ASL), or another form of signed language, lip-reading, English (written or spoken), or any other method of communication. They may use a combination of Sign Language Interpreters, hearing aids, assistive listening devices, and other specialized technology.
- r. "DeafBlind" is a term that refers to people who have both visual and hearing losses. The person is either deaf or hard of hearing, and their type and level of vision loss can vary. Many people who are DeafBlind communicate by using tactile signing or close vision signing, depending on their vision loss and communication needs.
- s. "Deaf Disabled" refers to a Deaf individual who has an additional disability that may or may not impact their signing ability and/or language comprehension.
- t. "Deaf Interpreter" means a specialist who is Deaf and provides interpreting services in American Sign Language and other visual and tactile communication forms. The Deaf Interpreter utilizes a distinct set of formative linguistic, cultural, and life experiences which enables nuanced comprehension and interaction in a wide range of visual language and communication forms. These communication forms are influenced by region, culture, age, literacy, education, socio-economic bearing, and/or physical, cognitive, and mental health. These experiences and knowledge, coupled with professional training, give the Deaf Interpreter the ability to successfully communicate across all types of interpreted interactions, both routine and high risk. The use of a Deaf Interpreter enables a level of linguistic and cultural bridging that is often not possible when hearing ASL-English Interpreters work alone.
- u. "DSHS Region" or "Region" means one (1) of the three (3) Regions of Washington State designated by DSHS as Region 1, Region 2 and Region 3. The Counties each Regions serves are as follows:
  - (1) Region 1: Klickitat, Yakima, Kittitas, Chelan, Okanogan, Douglas, Grant, Benton, Franklin, Walla Walla, Columbia, Garfield, Asotin, Adams, Whitman, Spokane, Lincoln, Ferry, Stevens, Pend Oreille.
  - (2) Region 2: Whatcom, Skagit, Snohomish, King, Island, San Juan.

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- (3) Region 3: Clallam, Jefferson, Grays Harbor, Mason, Kitsap, Pierce, Thurston, Pacific, Lewis, Wahkiakum, Cowlitz, Clark, Skamania.
- v. "Email Confirmation Form" means a confirmation booking email that is entered into ODHH's online system and generates a confirmation email which is sent to the Purchaser and the Contractor.
- w. "Emergency Interpretation Services" or "Emergency Interpreter Services" means Interpretation Services that must be provided within seven (7) days or less upon the Contractor receiving the request for Interpretation Services.
- x. "Evening, Weekend, and Holiday Rates" means the fees for services that are provided outside of regular State business hours. The days and times that qualify for the Evening, Weekend and Holiday Rates are as follows:
- (1) Monday through Friday after 5:00 p.m. but before 8:00 a.m.;
  - (2) Friday after 5:00 p.m. but before Monday at 8:00 a.m.;
  - (3) New Year's Day, Martin Luther King Jr's birthday, President's Day, Memorial Day, Juneteenth (June 19), Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Native American Heritage Day, and Christmas Day.
- y. "Family Member" means any person who is a relative by blood, adoption, or marriage.
- z. "Hard of Hearing" is a term that generally refers to people who have mild to moderate hearing loss and who may communicate through sign language, spoken language, or both. They may or may not have sufficient residual hearing to process linguistic information through sound. These individuals may or may not use a combination of: Sign Language Interpreters, hearing aids, lip reading, assistive listening devices, and other specialized communication technology.
- aa. "Hourly Rate" means the amount an Interpreter will be paid for each hour after the initial hour for the Appointment; the initial hour is paid at Base Rate as described in (f).
- bb. "Interpret", "Interpretation", or "Interpreting" means the process of translating communication between hearing individuals who communicate using spoken language, and individuals who communicate using sign language.
- cc. "Interpreter Preference" or "Preferred Interpreter" means the Customer has indicated that a specific Interpreter communicates effectively with them and they prefer to communicate through that Interpreter.
- dd. "Interpretation Referral Services" or "Interpreter Services" means the services provided by the Contractor to DSHS, a Customer, or a Purchaser pursuant to the terms of the Contract including but not limited to Emergency Interpretation Services and Non-Emergency Interpretation Services.
- ee. "Late Deafened" refers to a person who loses hearing later in life. Individuals who are late deafened have usually maintained spoken communication skills. These individuals may or may not use a combination of: Sign Language Interpreters, hearing aids, lip reading, assistive listening devices, and other specialized communication technology.
- ff. "National Association of the Deaf" or "NAD" means the national membership association that previously administered testing for certification of Sign Language Interpreters. The National Interpreting Certification testing system replaced NAD testing. NAD Certified Interpreters have been

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incorporated into RID's Certification Maintenance Program and their credentials are maintained by RID.

- gg. "No Show" means a Purchaser, Customer, Contracted Service Provider or Interpreter who fails to attend an Appointment at the scheduled time.
- hh. "Non-Emergency Interpreter Services" or "Non-Emergency Interpretation Services" means Interpretation Services that are requested by a Purchaser more than seven calendar days before the Appointment that the Interpretation Services are needed. Non-Emergency Interpreter Services includes Interpretation Services that are scheduled more than seven calendar days before the Appointment and are provided by the Contractor on a Business Day during or outside of regular business hours, or on a Saturday, Sunday, Federal or State holiday.
- ii. "ODHH" means the Office of the Deaf and Hard of Hearing, which is an office in the Aging and Long-Term Support Administration, Department of Social and Health Services in the State of Washington.
- jj. "ODHH Online Request Form" or "Request Form" means the online form administered by ODHH and found here: <https://www.dshs.wa.gov/altsa/odhh/sign-language-interpreter-contracts-and-resources-program> that Purchasers will use to make new Requests for Interpretation Services pursuant to the Contract.
- kk. "Pre-Certified Interpreter" means a Sign Language Interpreter who has passed the written component of RID or BEI Certification requirements but has not yet passed the performance exam.
- ll. "ProTactile Sign Language," also called "ProTactile" or "PTASL" is a form of communication used primarily by the DeafBlind community. Like tactile sign language, it is rooted in touch and communicated on the body. PTASL, developed by and for people who are DeafBlind, is a specific language which is more complex than using tactile to convey signed language. Protactile can also be used to connect small groups of people in communication, instead of just one-on-one. In some situations, two Interpreters are required to provide effective communication, and if the Appointment is longer than one (1) hour, a team of four (4) could be necessary. Interpreters serving DeafBlind Customers should have additional training and awareness of the socio-cultural aspects besides language, including the culture, philosophy and attitude inherent to the DeafBlind community. Sign Language Interpreters must be certified for ProTactile/PTASL before receiving additional compensation (fee) for using it in an interpreting situation.
- mm. "Public Assistance" shall have the same meaning as described in RCW 74.04.005. For the purposes of Purchasers that are State agencies being provided access to the services under this Contract, the services listed below are included in the definition of "Public Assistance".
  - (1) Communications with regard to a Customer's rights, responsibilities or obligations.
  - (2) Communications involving testing or assessments, including but not limited to, chemical dependency assessments (other than simple blood draws), mental health assessments, parenting assessments, and home visits.
  - (3) Communications that involve obtaining assent to any legally binding agreement.
  - (4) Communications during mediations or other out-of-court communications involving negotiations or other significant legal issues.
  - (5) Significant or lengthy communications with regard to services required by agreement or any

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court, including but not limited to:

- (a) Individual, group, and family counseling;
  - (b) Mental health services, therapy, or counseling;
  - (c) Chemical dependency treatment including: inpatient, residential, and outpatient substance abuse treatment services, and testing (other than blood draws);
  - (d) Assistance to address domestic violence;
  - (e) Shared planning meetings; and
  - (f) Services and activities designed to facilitate access to, and visitation of children by parents and siblings, and therapeutic services for families.
- (6) Significant customer communications related to services offered by Washington's Department of Children, Youth, and Families.
- nn. "Purchaser" or "Purchasers" means the Washington State Health Care Authority and the Washington State Department of Children, Youth and Families.
- oo. "Purchaser Interagency Agreement" means an agreement between DSHS and one or more other State agencies that allows the other State agency, or agencies, to access Interpretation Services under the terms and conditions of this Contract.
- pp. "Qualified Deaf Interpreter" or "QDI" means a non-certified Deaf Interpreter who has been assessed for a high level of proficiency in two languages, is on the ODHH registry of Interpreters, has the appropriate training and experience to interpret, adheres to the ODHH code of ethics and best practices, and is approved for Interpreting through the Contract.
- qq. "Registry of Interpreters for the Deaf" or "RID" means the national membership organization representing the professionals who provide sign language Interpreting services for the Deaf and Hard of Hearing.
- rr. "Request" means, pursuant to the terms and conditions of the Contract, the submission of a completed request that complies with section 6 "Purchaser Requests" below by DSHS or a Purchaser who is seeking Interpretation Services from the Contractor or the Contractors Interpretation Services providers.
- ss. "Service Verification Form" means the final online fillable form part of the ODHH Online Request Form completed by an Interpreter providing services pursuant to the Contract.
- tt. "Specialty Certification: Legal" or "SC:L" means a credential that is fully recognized by RID, although the designation is no longer awarded by RID. Appointments that are legal in nature do not require Interpreters to have SC:L, however Interpreters with the SC:L are entitled to a supplemental fee if the appointment is legal in nature.
- uu. "Staff" means the Contractor's owners, directors, officers, employees, volunteers, and agents who provide goods or services pursuant to this Contract. The term "Staff" also means the Subcontractors' directors, officers, employees, volunteers, and agents who provide goods or services on behalf of the Subcontractor and Contractor.

## Special Terms and Conditions

- vv. "Subcontract" means a contract, purchase order, or other form of agreement entered into by the Contractor or Subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under this Contract. The terms "Subcontract" and "Subcontracts" means Subcontract(s) in any tier.
- ww. "Subcontractor" means a person, partnership, company, or other entity that is not in the employment of or owned by Contractor and that is performing services under this Contract, a Subcontract, or a separate contract with or on behalf of the Contractor. The terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) in any tier.
- xx. "Supplemental Fees" means fees that are added to the hourly rate or Base Rate because the Interpreter who is providing the Interpretation Services has additional Certifications or approved credentials for specialized Appointments. The Purchaser will not limit scheduling to this pool of Interpreters but will reimburse these Interpreter's for having additional Certifications. Supplemental Fees for specialized Appointments include:
- (1) DeafBlind Appointment if the Interpreter has Credentials as an Interpreter for DeafBlind.
  - (2) DeafBlind Appointments if the Interpreter has ProTactile Certification.
  - (3) Legal Appointments if the Interpreter has SC:L or meets the training requirements established by ODHHS. Legal appointments include but are not limited to:
    - (a) Meeting with an attorney;
    - (b) Administrative hearings;
    - (c) Interviews or interactions with a police officer; and
    - (d) Any type of appeal that impacts housing, financial matters, or an individual's civil liberty or property interests.
  - (4) Mental Health Appointments if the Interpreter has QMHI Certification from Alabama's Department of Mental Health's Office of Deaf Services and American Deafness and Rehabilitation Association.
  - (5) Healthcare or medical Appointments if the Interpreter has met the required training hours, or has received a Certificate in Healthcare Interpreting from Rochester Institution of Technology (RIT), or a Certification in Healthcare Interpreting from the Certification Commission for Healthcare Interpreters.
- yy. "Travel Time" means the time an Interpreter uses to commute to and from an Appointment. Interpreters may be reimbursed at their hourly rate for travel time starting at one full hour of travel to and from the Appointment.

**2. Purpose.** The purpose of this Contract is to establish the terms and conditions by which DSHS and other Purchasers obtain Interpreter Referral Services from the Contractor. Such services will be utilized to aid DSHS and the State of Washington provide equitable communication access to persons who are Deaf, Deafblind, Hard of Hearing, Late Deafened and Deaf Disabled.

a. DSHS enters into this Contract as the result of DSHS RFQQ #2334-834.

(1) DSHS incorporates by reference DSHS RFQQ #2334-834, including all Amendments and



## Special Terms and Conditions

Exhibits.

(2) DSHS incorporates by reference, the Contractor's written response to DSHS RFQQ #2334-834, dated April 17, 2024.

3. **Purchasers.** The Contractor hereby agrees to provide the Interpreter Services contemplated herein under the terms, conditions, requirements, and specifications of the Contract, including rates, to DSHS and other Purchasers. In addition, Contractor acknowledges and agrees to the following conditions:
- a. Use of the Contract by any Purchaser is discretionary.
  - b. The services set forth herein will be requested by Purchasers as needed, based on program or policy requirements and a Customer's communication needs and preferences. Purchasers have the right to reject any or all of the Interpreters selected by the Contractor as unacceptable within twenty-four (24) hours of receiving confirmation that a Request was filled. There is no booking fee owed if the Purchaser exercises its right to reject under this section.
  - c. Payment to the Contractor for any services provided under this Contract is the sole responsibility of the Purchaser.
  - d. **DSHS as Purchaser.** DSHS may access the Interpreter Services under the terms and conditions of this Contract.

4. **Service Area.** Contractor shall provide the Interpreter Services set forth under this Contract in the DSHS Region or Regions documented below:

Region 1 – *Counties:* Klickitat, Yakima, Kittitas, Chelan, Okanogan, Douglas, Grant, Benton, Franklin, Walla Walla, Columbia, Garfield, Asotin, Adams, Whitman, Spokane, Lincoln, Ferry, Stevens, Pend Oreille.

Region 2 – *Counties:* Whatcom, Skagit, Snohomish, King, Island, San Juan.

Region 3 – *Counties:* Clallam, Jefferson, Grays Harbor, Mason, Kitsap, Pierce, Thurston, Pacific, Lewis, Wahkiakum, Cowlitz, Clark, Skamania

The specific physical address where the Interpreter assigned by the Contractor to facilitate communication will be determined by the Purchaser. The Contractor will not be limited to a region and may provide Interpreter Services to any region if asked to do so by DSHS or another Purchaser, *provided*, however, the Interpreter or Interpreters assigned by the Contractor to provide such service is listed on the ODHH Approved Interpreter Listing.

5. **Statement of Work.** The Contractor shall provide the services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:
- a. Categories of Service (Emergency and Non-Emergency Interpreter Services). Upon receiving a new Request from a Purchaser via the ODHH Online Request Form, email, telephone or voice message, the Contractor shall find and secure an Interpreter who will facilitate effective communication between individuals in accordance with the service requirements assigned for each category below:

(1) A Request made by a Purchaser for Emergency Interpreter Services must be completed by the

## Special Terms and Conditions

Contractor within seven (7) calendar days of the Contractor receiving the Request. For the purposes of this section, a request is completed when the Contractor schedules a Filled Appointment.

- (2) A Request made by a Purchaser for Non-Emergency Interpreter Services may be completed by the Contractor more than seven (7) calendar days after the Contractor receives the Request. The Contractor shall complete such requests in accordance with the industry standards and established norms related to the timely performance of this service. For the purposes of this section, a Request is completed when the Contractor schedules a Filled Appointment.
- b. ODHH Online Request System. The Contractor shall monitor the ODHH Online Request System to timely respond to new Requests. The Contractor shall use the ODHH Online Request Form, Email Confirmation Form and Service Verification Form to receive, confirm, reject or cancel Requests. Notwithstanding the foregoing, the Contractor agrees to accept initial Requests from a Purchaser by telephone or email, using the contact information provided by the Contractor.
  - c. Interpreter Assignment. All Interpreters assigned by the Contractor must Interpret in-person and be appropriately matched to the Appointment type. The Contractor shall fill a Request with an Interpreter who is suitable for the Appointment using the following criteria:
    - (1) If a minor, the age and background of the minor;
    - (2) The nature of the Appointment;
    - (3) The location of the Appointment (Home Visit, State Office);
    - (4) The Interpreter's skills, experience, and credentials;
    - (5) Any prior relationship with or knowledge of any individual(s) involved in the Appointment that may compromise the Interpreter's objectivity or result in significant discomfort for the Customer(s);
    - (6) Additional known issues presented by the Customer(s), if any, that might affect communication, including, but not limited to, physical, visual, developmental and mental health conditions;
    - (7) Preferences indicated by the Customer(s) or Purchaser, to include assigning a specific Interpreter preferred by the Customer or Purchaser. If a Purchaser specifically requests a particular Interpreter who is on the Approved Interpreter List, the Contractor shall attempt to schedule that Interpreter first before attempting to fill the request with any other Interpreter(s); *provided*, however, unless the Contractor does not do business with the preferred Interpreter or has reason to believe that scheduling the requested Interpreter would compromise the Customer's communication access or violate the terms of this Contract. Should these circumstances apply, the Contractor shall advise the Purchaser.
    - (8) Deaf Interpreters. When the Customer is known to use idiosyncratic non-standard signs or gestures - known as Home Signs - uses Foreign Sign Language, or when the Customer's health, legal outcome or freedom might be at stake, for Critical Events such as but not limited to: psychiatric evaluation, psychological, neuropsychological or forensic evaluation, assessment for independent living, administrative hearings and trainings, the Contractor shall use commercially reasonable best efforts to assign a Deaf Interpreter to such an Appointment. If the Contractor is uncertain that a Deaf Interpreter will be necessary, the Contractor shall request additional information from the Purchaser, consult with ODHH, or consult with to make the best determination.

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If the Contractor becomes aware that the Interpreter was not a good match for one, or multiple, Customers, the Contractor shall not assign that Interpreter to future Appointments with that Customer.

- d. Interpreter Subcontracts (Written Agreements). The Contractor shall have a Subcontract (written agreement) with Interpreters that states the Interpreter agrees to complete the Service Verification Form within two (2) Business Days after completing an Appointment. In the event an Interpreter is unable to complete the Service Verification Form, the Contractor may call the Interpreter to gather the information needed and enter such information onto the Service Verification Form on the Interpreter's behalf. To be deemed satisfactory to DSHS, the Service Verification Form must contain the following information:

- (1) The job number;
- (2) Interpreter's name;
- (3) Address of origin;
- (4) Address of destination;
- (5) Whether address is a home or business;
- (6) Actual work time, time started, and time ended;
- (7) Travel start and end time;
- (8) Total mileage to the appointment;
- (9) Any additional fees that may apply.

- di. Interpreter Registration and Registration Renewal. The Contractor shall ensure any Interpreters assigned to provide the services pursuant to the Contract are registered with and approved by ODHH. The Contractor will refer any new Interpreters to ODHH for their initial registration and background check.

- (1) The link for initial ODHH registration:  
<https://fortress.wa.gov/dshs/odhhapps/Interpreters/registration.aspx>.
- (2) The link for information regarding the DSHS Background Checks process and application:  
<https://www.dshs.wa.gov/ffa/background-check-central-unit>.
- (3) The link for renewing Interpreter ODHH registration:  
<https://fortress.wa.gov/dshs/odhhapps/Interpreters/renewal.aspx>.

- dii. Interpreter Conduct.

- (1) The Contractor shall ensure Interpreters assigned to perform work under the Contract are familiar with and adhere to RID's Code of Professional Conduct (found at this link: <https://www.rid.org/ethics/code-of-professional-conduct/>). If the Contractor becomes aware an Interpreter acted or allegedly acted in violation of RID's Code of Professional Conduct, the Contractor shall:

- (a) Immediately notify the party or parties affected by the alleged violation of their right to initiate

## Special Terms and Conditions

a complaint with RID or BEI, as well as their right to exclude the Interpreter from future Appointments;

- (b) Immediately notify ODHH of the alleged violation and the date it occurred, or the date the Contractor became aware of the violation, whichever occurred later;
- (c) Follow the Contractor's internal protocol for investigating and reporting an alleged violation. Whereas the investigation and report is completed no more than thirty (30) days after the alleged violation or the Contractor becoming aware of the alleged violation, whichever occurred later;
- (d) As soon as the investigation and report are complete, share the results with ODHH.

Should the Contractor's Interpreter be found in violation of RID's Code of Professional Conduct, the Interpreter may be prohibited from providing services under this Contract and may be removed from the ODHH list of approved Interpreters.

(2) The Contractor shall ensure their Interpreters do not engage in anti-competitive practices which might have the foreseeable effect of restricting or diminishing the availability of interpreting services under this Contract. Prohibited actions include, but are not limited to, the following:

- (a) Requiring the Contractor to work exclusively with the Interpreter;
- (b) Requiring the Contractor to sign a non-compete agreement;
- (c) Retaliation or threats against the Contractor who refuses to work exclusively with the Interpreter or will not sign a non-compete agreement;
- (d) Contacting Customers and Purchasers directly to solicit future business; and
- (e) Offering compensation or other consideration to Customers and Purchasers in exchange for the promise of future business.

g. Interpreter Hourly Rate. The Contractor shall compensate Interpreters assigned to perform work pursuant to the Contract in accordance with the Interpreter rate schedules posted on the ODHH website, found here: <https://www.dshs.wa.gov/altsa/odhh/interpreter-rates-explained> as amended from time to time each quarter or fiscal year.

### 6. Additional Conditions.

- a. Contractor shall not substitute or replace an Interpreter whose availability has been confirmed and who has been selected to provide Interpreter Service for an Appointment. In the event an Interpreter is replaced due to circumstances beyond the Contractor's control, the Contractor must receive prior approval from the Purchaser before replacing the Interpreter.
- b. The Contractor shall not schedule an Interpreter who is a family member of the Customer, Purchaser, or any individual who shall be participating in the Appointment.
- c. The Contractor shall not schedule an Interpreter who is known to have a business relationship with the Customer, Purchaser, or any person who will be participating in the Appointment.
- d. The Contractor shall not schedule an Interpreter who is known to have a financial interest in the outcome of the appointment.

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- e. The Contractor shall not engage in anti-competitive practices which might have the foreseeable effect of restricting or diminishing the availability of interpreting services under this Contract. Prohibited actions include, but are not limited to, the following:
- (1) Requiring Interpreters to work exclusively with the Contractor;
  - (2) Requiring Interpreters to sign a non-compete agreement;
  - (3) Retaliation or threats against an Interpreter who refuses to work exclusively with the Contractor or will not sign a non-compete agreement;
  - (4) Contacting Customers and Purchasers directly to solicit future business; and
  - (5) Offering compensation or other consideration to Customers and Purchasers in exchange for the promise of future business.

**7. Purchaser Requests and Contractors Response.** The Contractor and Purchaser will follow the process and requirements set forth below for the submission and receipt of Requests for in-person Interpretation Services. For all Appointment types, the Contractor shall provide a Purchaser's employee who makes a Request for in-person Interpreter Services with the full name, cell phone number and email address of the Interpreter who has been assigned by the Contractor to provide the in-person Interpreter Service.

a. In-Person Emergency and Non-Emergency Interpretation Services Purchaser Request.

- (1) Purchasers will submit a Request for Interpretation Services by completing ODHH's Online Request Form. Purchasers may make an initial Request by contacting the Contractor directly by telephone or email. Purchaser will make a good faith effort to complete ODHH's Online Request Form within thirty (30) minutes after such initial Request is made. All new Requests made by a Purchaser must contain the information set forth below, and will not be deemed actionable by the parties until such information is provided by the Purchaser:
  - (a) The date, time, and estimated duration of the Appointment;
  - (b) A statement indicating whether the Appointment is an Emergency Interpretation Services Appointment or a Non-Emergency Interpretation Services Appointment;
  - (c) A statement that the request for the Appointment is a request for an in-person Interpreter Appointment;
  - (d) The address of the location of the Appointment;
  - (e) The Purchaser's name, place of business, and contact information;
  - (f) The name of the Purchaser's employee who is making the request for an Appointment and the Purchaser's employee's work contact information;
  - (g) The name(s) and date of birth of the Customer(s), to the extent known at the time of the Request;
  - (h) The nature and venue type of the Appointment, such as a one-on-one meeting, a conference or webinar;



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- (i) The name(s) of Preferred Interpreter(s), if any;
- (j) A prior authorization number if it is an HCA Medicaid request; and
- (k) The date and time the Appointment request was submitted to the Contractor.

### b. Contractor's Response and Response Requirements to Purchaser Requests.

- (1) *In-Person Emergency Interpretation Services Telephone Confirmation.* Within **30 minutes** of receiving a Request by telephone, email, or text for Critical Event in-person Emergency Interpretation Services, the Contractor must contact the Purchaser's employee who made the Request and confirm the Contractor received the request. The Contractor must confirm the contact required under this section by using the Email Confirmation Form. The email confirmation must comply with the requirements described in this section (Special Terms and Conditions Section 7.b.(4)).
- (2) *In-Person Emergency Interpretation Services Email Confirmation.* The Contractor must contact the Purchaser, and the Purchaser's employee who made the Request for in-person Emergency Interpretation Services, to confirm the Contractor is able to assign an Interpreter on the date and time requested by the Purchaser. The Contractor's response under this section must be completed by using the Email Confirmation Form. The Email Confirmation Form must contain the information described in this section (Special Terms and Conditions Section 7.4.) and be sent to the Purchaser within the time limitations described below.
  - (a) For purposes of in-person Emergency Interpretation Services, the email confirming that the Contractor can assign an Interpreter must be sent to the Purchaser within **30 minutes** of the contact required under this section for requests made less than 24 hours before the appointment time.
  - (b) For purposes of in-person Emergency Interpretation Services, the email confirming that the Contractor can assign an Interpreter must be sent to the Purchaser within **one (1) hour** of the contact required under this section for requests made more than 24 hours but less than 72 hours before the appointment time.
  - (c) For purposes of in-person Emergency Interpretation Services, the email confirming that the Contractor can assign an Interpreter must be sent to the Purchaser within **an hour and half (90 minutes)** of the contact required under this section for requests made more than 72 hours but less than 7 days before the appointment time.
- (3) *In-Person Non-Emergency Interpretation Services Email Confirmation.* The email confirming if the Contractor can assign an Interpreter must be sent to the Purchaser within an **hour and a half (90 minutes)** of receiving from the Purchaser a Request for in-person Non-Emergency Interpretation Services.
- (4) *Request Confirmation Content.* The email confirmation described in this section (Special Terms and Conditions Section 7.b.) must contain the information set forth below:
  - (a) The name of the Contractor and Contractor's employee or Staff who is confirming the Contractor is available to provide in-person Interpretation Services pursuant to the Purchaser's Request.
  - (b) The name and contact information of the Interpreter who will be providing the in-person Critical Event Interpretation Services. Contact information includes the Interpreter's

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telephone number, cell phone number, Business Address, and email address.

- (c) The name of the Purchaser and the Purchaser's employee who made the Request for in-person Critical Event Interpretation Services.
  - (d) The date and time of the Purchaser's Request for in-person Critical Event Interpretation Services.
  - (e) Confirmation indicating whether the Request for in-person Critical Event Interpretation Services was filled by the Contractor.
  - (f) The date and time the in-person Critical Event Interpretation Services Appointment is scheduled to occur.
- (5) *Incomplete Interpretation Services Requests.* If the Contractor receives an incomplete Request, the Contractor shall immediately respond to the Purchaser and obtain the remaining required information as soon as possible. Pursuant to Special Terms and Conditions Section 7. a., the Contractor may complete the ODHH Online Request Form for a Purchaser in the event such Purchaser submits an incomplete Request. If the Contractor completes and incomplete request for a Purchaser, the Contractor must add the required amount of Travel Time to and from the Appointment.
- c. Contractor Response to Purchaser and ODHH if Contractor is Unable to Fill the Request for In-Person Interpretation Services. If the Contractor is unable to provide in-person Interpretation Services, the Contractor must comply with the requirements described in this section.
- (1) *Notice to the Purchaser's Employee.* If the Contractor is unable to provide an Interpreter pursuant to a Request for in-person Non-Emergency Interpretation Services, the Contractor must within one (1) Business Day of receiving such Request deliver to the Purchaser's employee who made the Request, a completed Contractor Request Denial Form. In any event the Contractor Request Denial Form must contain the following information:
- (a) The date and time the Request for in-person Interpretation Services was made to the Contractor.
  - (b) The full name of the Purchaser's employee who made the Request for in-person Interpretation Services.
  - (c) A complete written explanation describing why the Contractor was unable to provide in-person Interpretation Services. The written explanation must include, but not be limited to, the following information:
    - i. The number of Interpreters who the Contractor asked to provide in-person Interpretation Services for the Purchaser on the date requested by the Purchaser;
    - ii. The names and identification numbers of the Interpreters who the Contractor asked to provide in-person Interpretation Services for the Purchaser on the date requested by the Purchaser;
    - iii. Additional efforts made by the Contractor to establish contact with a particular Interpreter if the first attempt to contact the Interpreter was unsuccessful;
    - iv. A detailed explanation describing the reasons why the Contractor was unable to locate

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an interpreter.

(d) If the Contractor was able to locate an available Interpreter but was still unable to provide in-person Critical Event Interpretation Services, a detailed explanation describing why the Critical Event Interpretation Services were not provided.

(2) *Notice to ODHH and Purchaser's ADA Coordinator or Purchaser's Designee.* Within sixteen (16) hours of receiving the Request for in-person Interpretation Services, the Contractor must notify ODHH and the Purchaser's assigned ADA Coordinator or the agency designee in writing that the Contractor is not able to provide the Requested in-person Non-Emergency Interpretation Services.

### 8. Failure to Respond.

a. Failure to Respond to a Request or the Cancellation of a Scheduled In-Person Interpretation Appointment.

(1) The parties agree the Contractor's failure to comply with a Request for or the Cancellation of a scheduled in-person Interpretation appointment will interfere with the Purchasers' ability to comply with the ADA. The parties understand the ADA requires the following:

- (a) [The Purchasers], in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability...
- (b) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others; [or]
- (c) Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others...."
- (d) 28 C.F.R. § 35.130(b)(1)(ii). Further, the failure to comply with the ADA may result in corrective measures being imposed on a Purchaser by the United States Department of Justice (DOJ). 28 C.F.R. §§ 35.173 – 35.175.

b. Other Remedies. No imposition of other remedies shall constitute a waiver or release of any other remedy the Purchasers or DSHS may have under this Contract for Contractor's breach of this Contract, including without limitation, DSHS' right to terminate this Contract, and Purchasers shall be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Contract.

c. Critical Events. The Contractor's failure to timely schedule a Filled Appointment for three Critical Events during a three consecutive month period shall give DSHS the right to terminate this Contract.

d. Cancellations and No Shows. The No Shows or Cancellation of three Filled Appointments for Critical Events during a three consecutive month period shall give DSHS the right to terminate the Contract.

e. Notice of Cancellation of In-Person Interpreter Appointment

(1) If the Contractor agrees to provide in-person Interpretation Services at a Filled Appointment but later determines it cannot provide such services, the Contractor shall immediately provide

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written notice of the cancellation by submitting to ODH and the Purchaser a completed Contractor Cancellation Notice. The written Cancellation notice must contain the following information:

- (a) The date and time of the scheduled in-person Filled Appointment that is being canceled;
- (b) The address describing the location of the scheduled in-person Filled Appointment that is being canceled;
- (c) The name of the Purchaser's employee who originally requested the in-person Interpreter Appointment; and
- (d) A complete written explanation describing why the Contractor is unable to provide in-person Critical Event Interpretation Services at the Filled Appointment.

**9. Purchaser Cancellations.** This section does not apply to Cancellations made by the Contractor.

- a. Notice. Purchasers shall provide written notice to the Contractor if the in-person Filled Appointment is canceled by anyone except the Contractor. The written cancellation notice must contain the information described in Section 13 for Contractor cancellations, including the following information:
  - (1) The date and time of the in-person Filled Appointment that is being canceled;
  - (2) The address describing the location of the in-person Filled Appointment; and
  - (3) The name of the Purchaser's employee who originally requested the in-person Interpreter Appointment.
- b. Cancellation Fee. In the event a Purchaser fails to provide written notice to the Contractor at least forty-eight (48) hours in advance of a Filled Appointment, the Purchaser shall pay to the Contractor a fee for any Cancellation that was not caused by the Contractor. The Cancellation fee shall be equal to the amounts that would have been paid if the in-person Filled Appointment had not been canceled, to include any travel costs that would have been incurred. The Cancellation fee shall be calculated based on the estimated duration of the originally scheduled in-person Appointment. The estimated duration of the originally scheduled in-person Appointment shall be equal to the estimated duration calculation.

**10. Contract Monitoring.** Contractor hereby agrees to be subject to monitoring and evaluation requirements that ensure the Contractor's compliance with the terms and conditions of this Contract. The Contractor's performance may be evaluated by DSHS quarterly or more often at DSHS sole discretion. Contractor shall make available, as permitted under state and federal law, all records requested by DSHS required to perform such monitoring. All reports submitted by the Contractor may be utilized as part of the evaluation of Contractor's performance of work and adherence to the obligations set forth herein.

**11. Corrective Action Plan.** If, at any time, DSHS determines that the Contractor is deficient in the performance of its obligations under the Contract, the Contractor shall submit a Corrective Action Plan that is designed to correct the deficiency. Contractor shall submit the Corrective Action Plan to DSHS within fifteen (15) days upon the Contractor receiving written notification from DSHS that a Corrective Action Plan is required. DSHS may require modifications to the Corrective Action Plan based on their judgement as to whether the corrective action will correct the deficiency. The Contractor shall correct the deficiency within fifteen (15) days of submission of the Corrective Action Plan and receiving written approval of the plan from DSHS. In the event the Contractor does not correct the deficiency within the

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time specified by the foregoing, DSHS may hold back payments owed to the Contractor by DSHS. Payments may be withheld until DSHS is reasonably assured that the Contractor has corrected the deficiency. Upon such assurance, DSHS shall promptly pay to the Contractor all outstanding payment amounts withheld under this section. Contractor shall continue to provide services set forth in this Contract during the time period such payments are withheld.

- 12. Consideration.** Total consideration payable to Contractor for satisfactory performance of the work under this Contract shall be based on the following:

a. Service Rates and Fees.

Service Component	Description/Explanation	Fee or Rate
Booking Fee (s) Emergency Interpreter Services	In-person Emergency Interpreter Services (including Critical Events)	\$116.00
Booking Fee Non- Emergency Interpreter Services	In-Person Non-Emergency Interpreter Services (including Critical Events)	\$116.00
Supplemental Fee	Additional Hourly Fee that the Interpreter's are eligible for, that is added to each hour for the Appointment. (This is not included with travel time). The Interpreter can have more than one (1). <ol style="list-style-type: none"> <li>1. Mental Health</li> <li>2. Medial</li> <li>3. Legal</li> <li>4. Close Vision and Tactile</li> <li>5. Protactile</li> </ol>	\$5.00 each per Hour
Interpreter <i>No Shows</i>	No fee is due (including Booking Fees) when an Interpreter is a <i>No Show</i> .	No Fee
All Other <i>No Shows</i>	Fee when someone other than the Interpreter is a <i>No Show</i> for the scheduled Appointment	Full Fee for Requested Time and Booking Fees
Cancellations by Interpreter with no approved Replacement	Fee (Including Booking Fees) does not apply if an Interpreter cancels and a replacement Interpreter is not provided by the Contractor.	No Fee
Lodging	All lodging requests require the Purchaser's written pre-approval and lodging must be arranged by the Contractor.	Per Diem
Travel	Travel is covered from site to site using the Interpreter's hourly rate. Travel time will not include supplemental fees.	Follow fifteen (15) minute increments at time of Booking



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Mileage	Mileage is covered from site to site at OFM rate., found here: <a href="https://ofm.wa.gov/sites/default/files/public/legacy/policy/10.90a.pdf">https://ofm.wa.gov/sites/default/files/public/legacy/policy/10.90a.pdf</a>	
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### 13. Billing and Payment.

#### a. Invoicing.

- (1) The Contractor shall submit an invoice to the Purchaser's billing address or a designated email address for each Appointment with the associated completed and signed Service Verification Form Request for Sign Language Interpreter. Under no circumstance will DSHS be obligated to accept invoices for services requested by another Purchaser. Each invoice shall be submitted for payment no later than ninety (90) days from date the service was provided.
- (2) All billing documents must be accurate, legible, and complete. Contractor must submit their invoices in accordance with the Payment process set forth immediately hereunder (Section 9. b.) and must:
  - (a) Include a completed State of Washington Invoice Voucher Form A 19-1A, found at this link: <http://des.wa.gov/sites/default/files/public/documents/HRPayroll/SACS/A-19-1AForm.doc>.
  - (b) Reference the Contract Number;
  - (c) Contractor's unique Invoice Number;
  - (d) Contractor's Statewide Vendor Number (as per this link: <https://des.wa.gov/services/contracting-purchasing/doing-business-state/receiving-payment-state/statewide-vendor-number-lookup>);
  - (e) List the organizational/requesting entity's name (For example DSHS-AL TSA-RSC).
  - (f) Indicate the date and time required for the Appointment. The time should be either the scheduled start time of the Appointment or the time the Sign Language Interpreter shows up after the scheduled start time, whichever is later, through either the scheduled or actual end time, whichever is later. This information must include the following, which should be listed separately on the invoice:
    - i. The name of the assigned Interpreter and their Hourly Rate and any additional time in fifteen (15) minute increments; and
    - ii. Any applicable supplemental fees.
  - (g) Contain a completed sign language Interpreter request and "Verification Information" from generated from ODHH online system that is signed by the Interpreter and/or Contractor.
  - (h) For all Appointments billed on an invoice, all reimbursable services and fees must be submitted with the required documentation as listed above.
  - (i) Should the Contractor fill the Interpreter confirmed request, the Contractor may bill the Purchaser the Booking Fee, as indicated in the section on Rates above.

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- (j) If the Purchaser, Customer or contracted service provider cancels an Appointment, the Contractor must include the cancellation information into the online system and make sure that it is added to the Service Verification Form. This form must then be signed by the Contractor to verify the Cancellation.

b. Payment.

- (1) All Purchasers will make payment for satisfactory authorized services provided under this Contract within thirty (30) days of receipt of a complete and accurate invoice provided by the Contractor.
- (2) Purchasers may return invoices submitted by the Contractor that are incomplete or inaccurate for correction. Purchasers will not be obligated to render payment until receiving a corrected invoice from the Contractor. Upon receipt of the corrected invoice, Purchases will render payment within thirty (30) days of receiving a corrected, complete, and accurate invoice. All adjustments to billed Sign Language Interpreter service amounts must be completed within ninety (90) calendar days of the original date of billing by the Contractor, unless otherwise extended by the Purchaser.
- (3) Purchasers will not pay for services rendered under one or more of the following conditions:
  - (a) The Interpreter assigned by the Contractor is an Employee of a Purchaser.
  - (b) The Interpreter is a Family Member of the Customer;
  - (c) Travel if the Interpreter is commuting to another state job.
  - (d) The Interpreter is compensated for Sign Language Interpreting services by any other means.

**14. Insurance.**

The Contractor shall obtain and maintain for the duration of the Contract, at Contractor's expense, the following insurance coverages, and comply with the following insurance requirements.

a. General Liability Insurance

The Contractor shall maintain Commercial General Liability Insurance or Business Liability Insurance, no less comprehensive than coverage under Insurance Service Offices, Inc. (ISO) form CG 00-01, including coverage for bodily injury, property damage, and contractual liability. The amount of coverage shall be no less than \$1,000,000 per occurrence and \$2,000,000 General Aggregate. The policy shall include liability arising out of the parties' performance under this Contract, including but not limited to premises, operations, independent contractors, products-completed operations, personal injury, advertising injury, and liability assumed under an insured contract. The State of Washington, Department of Social & Health Services (DSHS), its elected and appointed officials, agents, and employees of the state, shall be named as additional insureds.

- b. In lieu of general liability insurance mentioned in Subsection a. above, if the Contractor is a sole proprietor with less than three contracts, the contractor may choose one of the following three general liability policies, but only if attached to a professional liability policy. If selected the policy shall be maintained for the life of the contract:

Supplemental Liability Insurance, including coverage for bodily injury and property damage that will

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cover the contractor wherever the service is performed with minimum limits of \$1,000,000 per occurrence; and \$2,000,000 General Aggregate. The State of Washington, DSHS, its elected and appointed officials, agents, and employees shall be named as additional insureds;

or

Workplace Liability Insurance, including coverage for bodily injury and property damage that provides coverage wherever the service is performed with minimum limits of \$1,000,000 per occurrence; and \$2,000,000 General Aggregate. The State of Washington, DSHS, its elected and appointed officials, agents, and employees shall be named as additional insureds:

or

Premises Liability Insurance if services are provided only at their recognized place of business, including coverage for bodily injury, property damage with minimum limits of \$1,000,000 per occurrence; and \$2,000,000 General Aggregate. The State of Washington, DSHS, its elected and appointed officials, agents, and employees shall be named as additional insureds.

c. Workers' Compensation

The Contractor shall comply with all applicable Workers' Compensation, occupational disease, and occupational health and safety laws and regulations. The State of Washington and DSHS shall not be held responsible for claims filed for Workers' Compensation under Title 51 RCW by the Contractor or its employees under such laws and regulations.

d. Employees and Volunteers

Insurance required of the Contractor under the Contract shall include coverage for the acts and omissions of the Contractor's employees and volunteers. In addition, the Contractor shall ensure that all employees and volunteers who use vehicles to transport clients or deliver services have personal automobile insurance and current driver's licenses.

e. Subcontractors

The Contractor shall ensure that all subcontractors have and maintain insurance with the same types and limits of coverage as required of the Contractor under the Contract. Failure of Subcontractors to comply with the insurance requirements in this Contract does not limit the Contractor's liability or responsibility.

f. Separation of Insureds

All insurance policies shall include coverage for cross liability and contain a "Separation of Insureds" provision.

g. Insurers

The Contractor shall obtain insurance from insurance companies identified as an admitted insurer/carrier in the State of Washington, with a current Best's Reports' rating of A-, Class VII, or better.

h. Evidence of Coverage

The Contractor shall, upon request by DSHS, submit a copy of the Certificate of Insurance, policy,

## Special Terms and Conditions

and additional insured endorsement for each coverage required of the Contractor under this Contract. The Certificate of Insurance shall identify the Washington State Department of Social and Health Services as the Certificate Holder. A duly authorized representative of each insurer, showing compliance with the insurance requirements specified in this Contract, shall execute each Certificate of Insurance.

The Contractor shall maintain copies of Certificates of Insurance, policies, and additional insured endorsements for each subcontractor as evidence that each subcontractor maintains insurance as required by the Contract.

i. Material Changes

The insurer shall give the DSHS point of contact listed on page one of this Contract 45 days advance written notice of cancellation or non-renewal of any insurance policy required under this Contract. If cancellation is due to non-payment of premium, the insurer shall give DSHS 10 days advance written notice of cancellation. Failure to provide notice as required may result in termination of the Contract.

j. Waiver of Subrogation

Contractor waives all rights of subrogation against DSHS for the recovery of damages to the extent such damages are or would be covered by insurance required under the Contract. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies whether or not DSHS receives the waiver of subrogation endorsement from the insurer.

k. Coverage Limits

By requiring insurance, the State of Washington and DSHS do not represent that the coverage and limits required in this Contract will be adequate to protect the Contractor. Such coverage and limits shall not limit the Contractor's liability in excess of the required coverage and limits, and shall not limit the Contractor's liability under the indemnities and reimbursements granted to the State and DSHS in this Contract.

l. Primary Coverage

All Contractor's insurance provided in compliance with this Contract shall be primary and shall not seek contribution from insurance or self-insurance programs afforded to or maintained by the State. Insurance or self-insurance programs afforded to or maintained by the State shall be in excess of, and shall not contribute with, insurance required of the Contractor and Subcontractors under this Contract.

m. Waiver

The Contractor waives all rights, claims and causes of action against the State of Washington and DSHS for the recovery of damages to the extent said damages are covered by insurance maintained by Contractor.

n. Liability Cap

Any limitation of liability or liability cap set forth in this Contract shall not preclude DSHS from claiming under any insurance maintained by the Contractor pursuant to this Contract, up to the policy limits.

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o. Professional Liability (errors & omissions)

The Contractor shall maintain insurance of at least \$1,000,000 per occurrence, \$2,000,000 General Aggregate for malpractice or errors and omissions coverage against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use, and damages because of negligent acts, errors, and omissions in any way related to this contract.

### 15. Disputes.

a. Payment Dispute Resolution. Disputes related to payments made by DSHS to the Contractor will be resolved between DSHS and the Contractor. Disputes related to payments made by a Purchaser for services provided under this Contract shall be resolved between the Purchaser and the Contractor. The Contractor and DSHS or Purchaser will be responsible for exercising due diligence in identifying procedures related to the local level handling and forwarded appeals of payment disputes. Action pursuant to this clause by either party shall not be construed as a waiver of any legal avenue of recourse available through this Contract.

b. Non-Payment Related Dispute Resolution. The parties agree to make their best efforts to resolve other disputes arising from this Contract and agree that the dispute resolution process described herein is the sole remedy available under this Contract. When a dispute arises over an issue concerning the terms of this Contract, the parties agree to the following process to address the dispute:

(1) The Contractor and ODHH shall attempt to resolve the dispute through informal means between the Contractor and the ODHH Contract Administrator assigned to this Contract;

(2) If the Contractor is not satisfied with the outcome of the resolution with the Contract Administrator, the Contractor may submit the disputed issue, in writing, for review within ten (10) business days to:

Director  
Office of the Deaf and Hard of Hearing  
PO Box 45301  
Olympia WA 98504-5301

The ODHH Director may request additional information from the ODHH Contract administrator and/or the Contractor. The ODHH Director shall issue a written decision to the Contractor within thirty (30) calendar days of receipt of all information relevant to the issue.

(3) If the Contractor disagrees with the written decision of the ODHH Director, the Contractor may request the ODHH Director's Supervisor to appoint a representative other than the ODHH Director to review the dispute. The request for review must be submitted to the ODHH Director, in writing within thirty (30) business days of the Contractor's receipt of the decision by the ODHH Director. The DSHS representative may request additional information from ODHH and/or the Contractor. The DSHS representative may request a meeting to discuss the dispute. If so, the Contractor, ODHH Director, and the DSHS representative shall mutually agree on the date of the meeting. The DSHS representative shall issue a written decision to the Contractor within thirty (30) calendar days after receipt of the Contractor request or the date of the meeting, whichever is later. Such decision shall be final.

### 16. Legal Notices.

a. Any legal notices required or desired shall be in writing and delivered by U.S. certified mail, return



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receipt requested, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth on page one of this contracts or to such other address or email address as the parties may specify in writing.

- b. Notices shall be deemed effective upon the earlier of receipt when delivered, or, if mailed, upon return receipt, or, if emailed, upon transmission to the designated email address of said addressee.

**17. Notice of Overpayment.** If the Contractor receives a vendor overpayment notice or a letter communicating the existence of an overpayment from the Purchaser, the Contractor may protest the overpayment determination by requesting an adjudicative proceeding. The Contractor's request for an adjudicative proceeding must:

- a. Be *received* by the Office of Financial Recovery (OFR) at Post Office Box 9501, Olympia, Washington 98507-9501, within twenty-eight (28) calendar days of service of the notice;
- b. Be sent by certified mail (return receipt) or other manner that proves OFR received the request;
- c. Include a statement as to why the Contractor thinks the notice is incorrect; and
- d. Include a copy of the overpayment notice.

Timely and complete requests will be scheduled for a formal hearing by the Office of Administrative Hearings. The Contractor may be offered a pre-hearing or alternative dispute resolution conference in an attempt to resolve the overpayment dispute prior to the hearing.

Failure to provide OFR with a written request for a hearing within twenty-eight (28) days of service of a vendor overpayment notice or other overpayment letter will result in an overpayment debt against the Contractor. The Purchaser may charge the Contractor interest and any costs associated with the collection of this overpayment. The Purchaser may collect an overpayment debt through lien, foreclosure, seizure and sale of the Contractor's real or personal property; order to withhold and deliver; or any other collection action available to the Purchaser to satisfy the overpayment debt.

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### Exhibit A – Data Security Requirements

1. **Definitions.** The words and phrases listed below, as used in this Exhibit, shall each have the following definitions:
  - a. “AES” means the Advanced Encryption Standard, a specification of Federal Information Processing Standards Publications for the encryption of electronic data issued by the National Institute of Standards and Technology (<http://nvlpubs.nist.gov/nistpubs/FIPS/NIST.FIPS.197.pdf>).
  - b. “Authorized Users(s)” means an individual or individuals with a business need to access DSHS Confidential Information, and who has or have been authorized to do so.
  - c. “Business Associate Agreement” means an agreement between DSHS and a contractor who is receiving Data covered under the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996. The agreement establishes permitted and required uses and disclosures of protected health information (PHI) in accordance with HIPAA requirements and provides obligations for business associates to safeguard the information.
  - d. “Category 4 Data” is data that is confidential and requires special handling due to statutes or regulations that require especially strict protection of the data and from which especially serious consequences may arise in the event of any compromise of such data. Data classified as Category 4 includes but is not limited to data protected by: the Health Insurance Portability and Accountability Act (HIPAA), Pub. L. 104-191 as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH), 45 CFR Parts 160 and 164; the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; 34 CFR Part 99; Internal Revenue Service Publication 1075 (<https://www.irs.gov/pub/irs-pdf/p1075.pdf>); Substance Abuse and Mental Health Services Administration regulations on Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2; and/or Criminal Justice Information Services, 28 CFR Part 20.
  - e. “Cloud” means data storage on servers hosted by an entity other than the Contractor and on a network outside the control of the Contractor. Physical storage of data in the cloud typically spans multiple servers and often multiple locations. Cloud storage can be divided between consumer grade storage for personal files and enterprise grade for companies and governmental entities. Examples of consumer grade storage would include iTunes, Dropbox, Box.com, and many other entities. Enterprise cloud vendors include Microsoft Azure, Amazon Web Services, and Rackspace.
  - f. “Encrypt” means to encode Confidential Information into a format that can only be read by those possessing a “key”; a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 256 bits for symmetric keys, or 2048 bits for asymmetric keys. When a symmetric key is used, the Advanced Encryption Standard (AES) must be used if available.
  - g. “FedRAMP” means the Federal Risk and Authorization Management Program (see [www.fedramp.gov](http://www.fedramp.gov)), which is an assessment and authorization process that federal government agencies have been directed to use to ensure security is in place when accessing Cloud computing products and services.
  - h. “Hardened Password” means a string of at least eight characters containing at least three of the following four character classes: Uppercase alphabetic, lowercase alphabetic, numeral, and special characters such as an asterisk, ampersand, or exclamation point.

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- i. "Mobile Device" means a computing device, typically smaller than a notebook, which runs a mobile operating system, such as iOS, Android, or Windows Phone. Mobile Devices include smart phones, most tablets, and other form factors.
  - j. "Multi-factor Authentication" means controlling access to computers and other IT resources by requiring two or more pieces of evidence that the user is who they claim to be. These pieces of evidence consist of something the user knows, such as a password or PIN; something the user has such as a key card, smart card, or physical token; and something the user is, a biometric identifier such as a fingerprint, facial scan, or retinal scan. "PIN" means a personal identification number, a series of numbers which act as a password for a device. Since PINs are typically only four to six characters, PINs are usually used in conjunction with another factor of authentication, such as a fingerprint.
  - k. "Portable Device" means any computing device with a small form factor, designed to be transported from place to place. Portable devices are primarily battery powered devices with base computing resources in the form of a processor, memory, storage, and network access. Examples include, but are not limited to, mobile phones, tablets, and laptops. Mobile Device is a subset of Portable Device.
  - l. "Portable Media" means any machine readable media that may routinely be stored or moved independently of computing devices. Examples include magnetic tapes, optical discs (CDs or DVDs), flash memory (thumb drive) devices, external hard drives, and internal hard drives that have been removed from a computing device.
  - m. "Secure Area" means an area to which only authorized representatives of the entity possessing the Confidential Information have access, and access is controlled through use of a key, card key, combination lock, or comparable mechanism. Secure Areas may include buildings, rooms or locked storage containers (such as a filing cabinet or desk drawer) within a room, as long as access to the Confidential Information is not available to unauthorized personnel. In otherwise Secure Areas, such as an office with restricted access, the Data must be secured in such a way as to prevent access by non-authorized staff such as janitorial or facility security staff, when authorized Contractor staff are not present to ensure that non-authorized staff cannot access it.
  - n. "Trusted Network" means a network operated and maintained by the Contractor, which includes security controls sufficient to protect DSHS Data on that network. Controls would include a firewall between any other networks, access control lists on networking devices such as routers and switches, and other such mechanisms which protect the confidentiality, integrity, and availability of the Data.
  - o. "Unique User ID" means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase or other mechanism, authenticates a user to an information system.
2. **Authority.** The security requirements described in this document reflect the applicable requirements of Standard 141.10 (<https://ocio.wa.gov/policies>) of the Office of the Chief Information Officer for the state of Washington, and of the DSHS Information Security Policy and Standards Manual. Reference material related to these requirements can be found here: <https://www.dshs.wa.gov/ffa/keeping-dshs-client-information-private-and-secure>, which is a site developed by the DSHS Information Security Office and hosted by DSHS Central Contracts and Legal Services.
3. **Administrative Controls.** The Contractor must have the following controls in place:
- a. A documented security policy governing the secure use of its computer network and systems, and

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which defines sanctions that may be applied to Contractor staff for violating that policy.

- b. If the Data shared under this agreement is classified as Category 4, the Contractor must be aware of and compliant with the applicable legal or regulatory requirements for that Category 4 Data.
- c. If Confidential Information shared under this agreement is classified as Category 4, the Contractor must have a documented risk assessment for the system(s) housing the Category 4 Data.

**4. Authorization, Authentication, and Access.** In order to ensure that access to the Data is limited to authorized staff, the Contractor must:

- a. Have documented policies and procedures governing access to systems with the shared Data.
- b. Restrict access through administrative, physical, and technical controls to authorized staff.
- c. Ensure that user accounts are unique and that any given user account logon ID and password combination is known only to the one employee to whom that account is assigned. For purposes of non-repudiation, it must always be possible to determine which employee performed a given action on a system housing the Data based solely on the logon ID used to perform the action.
- d. Ensure that only authorized users are capable of accessing the Data.
- e. Ensure that an employee's access to the Data is removed immediately:
  - (1) Upon suspected compromise of the user credentials.
  - (2) When their employment, or the contract under which the Data is made available to them, is terminated.
  - (3) When they no longer need access to the Data to fulfill the requirements of the contract.
- f. Have a process to periodically review and verify that only authorized users have access to systems containing DSHS Confidential Information.
- g. When accessing the Data from within the Contractor's network (the Data stays within the Contractor's network at all times), enforce password and logon requirements for users within the Contractor's network, including:
  - (1) A minimum length of 8 characters, and containing at least three of the following character classes: uppercase letters, lowercase letters, numerals, and special characters such as an asterisk, ampersand, or exclamation point.
  - (2) That a password does not contain a user's name, logon ID, or any form of their full name.
  - (3) That a password does not consist of a single dictionary word. A password may be formed as a passphrase which consists of multiple dictionary words.
  - (4) That passwords are significantly different from the previous four passwords. Passwords that increment by simply adding a number are not considered significantly different.
- h. When accessing Confidential Information from an external location (the Data will traverse the Internet or otherwise travel outside the Contractor's network), mitigate risk and enforce password and logon requirements for users by employing measures including:

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- (1) Ensuring mitigations applied to the system don't allow end-user modification.
- (2) Not allowing the use of dial-up connections.
- (3) Using industry standard protocols and solutions for remote access. Examples would include RADIUS and Citrix.
- (4) Encrypting all remote access traffic from the external workstation to Trusted Network or to a component within the Trusted Network. The traffic must be encrypted at all times while traversing any network, including the Internet, which is not a Trusted Network.
- (5) Ensuring that the remote access system prompts for re-authentication or performs automated session termination after no more than 30 minutes of inactivity.
- (6) Ensuring use of Multi-factor Authentication to connect from the external end point to the internal end point.

i. Passwords or PIN codes may meet a lesser standard if used in conjunction with another authentication mechanism, such as a biometric (fingerprint, face recognition, iris scan) or token (software, hardware, smart card, etc.) in that case:

- (1) The PIN or password must be at least 5 letters or numbers when used in conjunction with at least one other authentication factor
- (2) Must not be comprised of all the same letter or number (11111, 22222, aaaaa, would not be acceptable)
- (3) Must not contain a "run" of three or more consecutive numbers (12398, 98743 would not be acceptable)

j. If the contract specifically allows for the storage of Confidential Information on a Mobile Device, passcodes used on the device must:

- (1) Be a minimum of six alphanumeric characters.
- (2) Contain at least three unique character classes (upper case, lower case, letter, number).
- (3) Not contain more than a three consecutive character run. Passcodes consisting of 12345, or abcd12 would not be acceptable.

k. Render the device unusable after a maximum of 10 failed logon attempts.

**5. Protection of Data.** The Contractor agrees to store Data on one or more of the following media and protect the Data as described:

- a. **Hard disk drives.** For Data stored on local workstation hard disks, access to the Data will be restricted to Authorized User(s) by requiring logon to the local workstation using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards.
- b. **Network server disks.** For Data stored on hard disks mounted on network servers and made available through shared folders, access to the Data will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has



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authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on disks mounted to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

For DSHS Confidential Information stored on these disks, deleting unneeded Data is sufficient as long as the disks remain in a Secure Area and otherwise meet the requirements listed in the above paragraph. Destruction of the Data, as outlined below in Section 8 Data Disposition, may be deferred until the disks are retired, replaced, or otherwise taken out of the Secure Area.

- c. **Optical discs (CDs or DVDs) in local workstation optical disc drives.** Data provided by DSHS on optical discs which will be used in local workstation optical disc drives and which will not be transported out of a Secure Area. When not in use for the contracted purpose, such discs must be Stored in a Secure Area. Workstations which access DSHS Data on optical discs must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- d. **Optical discs (CDs or DVDs) in drives or jukeboxes attached to servers.** Data provided by DSHS on optical discs which will be attached to network servers and which will not be transported out of a Secure Area. Access to Data on these discs will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on discs attached to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- e. **Paper documents.** Any paper records must be protected by storing the records in a Secure Area which is only accessible to authorized personnel. When not in use, such records must be stored in a Secure Area.
- f. **Remote Access.** Access to and use of the Data over the State Governmental Network (SGN) or Secure Access Washington (SAW) will be controlled by DSHS staff who will issue authentication credentials (e.g. a Unique User ID and Hardened Password) to Authorized Users on Contractor's staff. Contractor will notify DSHS staff immediately whenever an Authorized User in possession of such credentials is terminated or otherwise leaves the employ of the Contractor, and whenever an Authorized User's duties change such that the Authorized User no longer requires access to perform work for this Contract.
- g. **Data storage on portable devices or media.**
  - (1) Except where otherwise specified herein, DSHS Data shall not be stored by the Contractor on portable devices or media unless specifically authorized within the terms and conditions of the Contract. If so authorized, the Data shall be given the following protections:
    - (a) Encrypt the Data.
    - (b) Control access to devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics.

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- (c) Manually lock devices whenever they are left unattended and set devices to lock automatically after a period of inactivity, if this feature is available. Maximum period of inactivity is 20 minutes.
  - (d) Apply administrative and physical security controls to Portable Devices and Portable Media by:
    - i. Keeping them in a Secure Area when not in use,
    - ii. Using check-in/check-out procedures when they are shared, and
    - iii. Taking frequent inventories.
  - (2) When being transported outside of a Secure Area, Portable Devices and Portable Media with DSHS Confidential Information must be under the physical control of Contractor staff with authorization to access the Data, even if the Data is encrypted.
- h. Data stored for backup purposes.**
- (1) DSHS Confidential Information may be stored on Portable Media as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. Such storage is authorized until such time as that media would be reused during the course of normal backup operations. If backup media is retired while DSHS Confidential Information still exists upon it, such media will be destroyed at that time in accordance with the disposition requirements below in Section 8 *Data Disposition*.
  - (2) Data may be stored on non-portable media (e.g. Storage Area Network drives, virtual media, etc.) as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. If so, such media will be protected as otherwise described in this exhibit. If this media is retired while DSHS Confidential Information still exists upon it, the data will be destroyed at that time in accordance with the disposition requirements below in Section 8 *Data Disposition*.
- i. Cloud storage.** DSHS Confidential Information requires protections equal to or greater than those specified elsewhere within this exhibit. Cloud storage of Data is problematic as neither DSHS nor the Contractor has control of the environment in which the Data is stored. For this reason:
- (1) DSHS Data will not be stored in any consumer grade Cloud solution, unless all of the following conditions are met:
    - (a) Contractor has written procedures in place governing use of the Cloud storage and Contractor attests in writing that all such procedures will be uniformly followed.
    - (b) The Data will be Encrypted while within the Contractor network.
    - (c) The Data will remain Encrypted during transmission to the Cloud.
    - (d) The Data will remain Encrypted at all times while residing within the Cloud storage solution.
    - (e) The Contractor will possess a decryption key for the Data, and the decryption key will be possessed only by the Contractor and/or DSHS.

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(f) The Data will not be downloaded to non-authorized systems, meaning systems that are not on either the DSHS or Contractor networks.

(g) The Data will not be decrypted until downloaded onto a computer within the control of an Authorized User and within either the DSHS or Contractor's network.

(2) Data will not be stored on an Enterprise Cloud storage solution unless either:

(a) The Cloud storage provider is treated as any other Sub-Contractor, and agrees in writing to all of the requirements within this exhibit; or,

(b) The Cloud storage solution used is FedRAMP certified.

(3) If the Data includes protected health information covered by the Health Insurance Portability and Accountability Act (HIPAA), the Cloud provider must sign a Business Associate Agreement prior to Data being stored in their Cloud solution.

**6. System Protection.** To prevent compromise of systems which contain DSHS Data or through which that Data passes:

a. Systems containing DSHS Data must have all security patches or hotfixes applied within 3 months of being made available.

b. The Contractor will have a method of ensuring that the requisite patches and hotfixes have been applied within the required timeframes.

c. Systems containing DSHS Data shall have an Anti-Malware application, if available, installed.

d. Anti-Malware software shall be kept up to date. The product, its anti-virus engine, and any malware database the system uses, will be no more than one update behind current.

**7. Data Segregation.**

a. DSHS Data must be segregated or otherwise distinguishable from non-DSHS data. This is to ensure that when no longer needed by the Contractor, all DSHS Data can be identified for return or destruction. It also aids in determining whether DSHS Data has or may have been compromised in the event of a security breach. As such, one or more of the following methods will be used for data segregation.

(1) DSHS Data will be kept on media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-DSHS Data. And/or,

(2) DSHS Data will be stored in a logical container on electronic media, such as a partition or folder dedicated to DSHS Data. And/or,

(3) DSHS Data will be stored in a database which will contain no non-DSHS data. And/or,

(4) DSHS Data will be stored within a database and will be distinguishable from non-DSHS data by the value of a specific field or fields within database records.

(5) When stored as physical paper documents, DSHS Data will be physically segregated from non-DSHS data in a drawer, folder, or other container.

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b. When it is not feasible or practical to segregate DSHS Data from non-DSHS data, then both the DSHS Data and the non-DSHS data with which it is commingled must be protected as described in this exhibit.

8. **Data Disposition.** When the contracted work has been completed or when the Data is no longer needed, except as noted above in Section 5.b, Data shall be returned to DSHS or destroyed. Media on which Data may be stored and associated acceptable methods of destruction are as follows:

<b>Data stored on:</b>	<b>Will be destroyed by:</b>
Server or workstation hard disks, or  Removable media (e.g. floppies, USB flash drives, portable hard disks) excluding optical discs	Using a "wipe" utility which will overwrite the Data at least three (3) times using either random or single character data, or  Degaussing sufficiently to ensure that the Data cannot be reconstructed, or  Physically destroying the disk
Paper documents with sensitive or Confidential Information	Recycling through a contracted firm, provided the contract with the recycler assures that the confidentiality of Data will be protected.
Paper documents containing Confidential Information requiring special handling (e.g. protected health information)	On-site shredding, pulping, or incineration
Optical discs (e.g. CDs or DVDs)	Incineration, shredding, or completely defacing the readable surface with a coarse abrasive
Magnetic tape	Degaussing, incinerating or crosscut shredding

9. **Notification of Compromise or Potential Compromise.** The compromise or potential compromise of DSHS shared Data must be reported to the DSHS Contact designated in the Contract within one (1) business day of discovery. If no DSHS Contact is designated in the Contract, then the notification must be reported to the DSHS Privacy Officer at [dshsprivacyofficer@dshs.wa.gov](mailto:dshsprivacyofficer@dshs.wa.gov). Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.

10. **Data shared with Subcontractors.** If DSHS Data provided under this Contract is to be shared with a subcontractor, the Contract with the subcontractor must include all of the data security provisions within this Contract and within any amendments, attachments, or exhibits within this Contract. If the Contractor cannot protect the Data as articulated within this Contract, then the contract with the subcontractor must be submitted to the DSHS Contact specified for this contract for review and approval.