

## 2014 SUPPLEMENTAL BUDGET

### CONFIDENTIAL DATA COMPLIANCE

Request	FY14	FY15	13-15
FTE	1.0	4.0	2.5
GF-State	\$301,000	\$1,725,000	\$2,026,000
<b>Total</b>	<b>\$367,000</b>	<b>\$2,105,000</b>	<b>\$2,472,000</b>

#### DECISION PACKAGE SUMMARY

The Administrative and External Relations Administration (AERA) requests funding for staff, training, and software to comply with newly adopted federal privacy rules. By funding this request, the department is expected to achieve compliance with the significant changes to the Health Information Portability and Accountability Act (HIPAA) brought about by newly adopted Omnibus Rules.

#### PROBLEM STATEMENT

DSHS must comply with and monitor adherence to new HIPAA Omnibus Rules. These rules, which take effect September 23, 2013, require significant changes to WAC, agency policies, and agency practices. The scope of the changes impacts all DSHS. These changes are important in avoiding security breaches and potential fines from the Office of Civil Rights (OCR). DSHS has been managing privacy without a full-time Privacy Officer. This workload has been covered by an FTE whose primary function is management of the department's public records program. A combined workload can no longer be maintained given that DSHS serves approximately 2 million clients per year, has over 17,000 employees, and holds about 80,000 contracts. Review and auditing of staff and contractor practices are also essential to maintain compliance with privacy and confidentiality laws. Compliance to the new rules will not be achieved without new resources. In the absence of the requested resources, DSHS is at substantial risk to have a breach of confidential records and/or Protected Health Information (PHI). The department can receive significant financial penalties from OCR for any breach of confidentiality. For example, the State of Alaska was fined \$1.7 million for a breach resulting from a stolen unencrypted USB drive. OCR found that Alaska had insufficient policies regarding encryption and had not conducted a risk analysis or developed risk management strategies to protect PHI. In addition to potential fines, clients of the department are negatively impacted anytime confidential data is released without proper authorization.

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#### PROPOSED SOLUTION

The required resources are 1.0 FTE to function as the DSHS Privacy Officer; 1.0 FTE for specific training development and delivery of training within DSHS; backfill for direct care staff in DSHS who are being trained in new requirements, redaction software, and 2.0 FTEs for internal auditors to monitor compliance and performance with privacy and record retention requirements. In addition, \$750,000 in funding is requested in Fiscal Year 2015 for an experienced contractor (i.e. Big 4 audit firm) to conduct a risk analysis of all DSHS information assets in a 3 year period and then decide whether to continue to contract or staff the risk analysis functions internally. DSHS information assets include items such as hardware (computers, printers, servers, disk drives, memory cards, etc.), software, databases, and computer applications. The requested resources are the minimum amount needed to support broader compliance with privacy rules throughout the department. Implementation of the rules must begin September 23, 2013. Given the schedule for the 2014 Supplemental budget, April 15, 2014 appears to be the earliest the new resources could be available to the department.

#### EXPECTED RESULTS

Improved compliance to the newly established HIPAA Omnibus Rules will be achieved as a result of the added resources. Compliance to HIPAA is essential to protecting client confidential information and to avoid investigations and financial penalties from the Office of Civil Rights (OCR). Some changes required by HIPAA will impact practices by DSHS contractors, however, these changes are also important for the protection of confidential data and health information.

This request supports Results Washington Goal to:

Ensure efficiency, performance, and accountability to the public by providing transparency and accountability in state agency operations and increase customer satisfaction.

#### STAKEHOLDER IMPACT

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DSHS stakeholders, partners, and clients are unlikely to have concerns about the proposed investment since compliance with HIPAA and other privacy laws and rules benefits each of these parties.