Washington State Department of Social & Health Services — Transforming lives	**IT SERVICES CONTRACT** **Office of Refugee and Immigrant** **Assistance (ORIA) Case Management and** **Database Solution System**	DSHS Contract Number: ☒ Resulting From Competition Number: 2323-833 ☐ Competition Exempt ☐ Sole Source

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 43.19 and 43.105 RCW.	Program Contract Number: Contractor Contract Number:

CONTRACTOR NAME	CONTRACTOR doing business as (DBA)	
CONTRACTOR ADDRESS ,	WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI)	DSHS INDEX NUMBER

CONTRACTOR CONTACT	CONTRACTOR TELEPHONE	CONTRACTOR FAX	CONTRACTOR E-MAIL ADDRESS

DSHS ADMINISTRATION Economic Services Administration	DSHS DIVISION Community Services Division	DSHS CONTRACT CODE 3900SC-23

DSHS CONTACT NAME AND TITLE Doina Dobrin Contract Manager	DSHS CONTACT ADDRESS , Click here to enter text.	

DSHS CONTACT TELEPHONE	DSHS CONTACT FAX	DSHS CONTACT E-MAIL ADDRESS

IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT? No	ASSISTANCE LISTING NUMBER(S)

CONTRACT START DATE	CONTRACT END DATE	CONTRACT MAXIMUM AMOUNT

EXHIBITS. The following Exhibits are attached and are incorporated into this Contract by reference:
☒ Exhibits (specify): Exhibit A – Data Security Requirements; Exhibit B – Statement of Work; Exhibit C - Incident Urgency Definitions; Exhibit D - Incident & Problem Tickets: Impact/Urgency/Priority Definitions; Exhibit E - Federal Tax Information; Exhibit F - Federal Contract Provisions.

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.

CONTRACTOR SIGNATURE Draft - Please Do Not Sign	PRINTED NAME AND TITLE	DATE SIGNED
DSHS SIGNATURE Draft - Please Do Not Sign	PRINTED NAME AND TITLE	DATE SIGNED

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/.

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 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:

(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) Confidential Information shall not be used transmitted via fax (facsimile).

(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 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.

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 subsubsection, "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 in anticipation of the delivery of services to be provided pursuant to this Contract.

19. **Commencement of Work**. No work shall be performed by the Contractor until the Contract is executed by the Contractor and DSHS and received by DSHS.

20. **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.

21. **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.

22. **Contractor Commitments, Warranties and Representations.** Any written commitment by the Contractor within the scope of this Contract shall be binding upon the Contractor. Failure of the Contractor to fulfill such a commitment may constitute breach and shall render the Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by the Contractor includes but is not limited to: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by the Contractor in its response to the solicitation resulting in this Contract ("Bid") or contained in any Contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its Bid or used to effect the sale to DSHS.

23. **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.

24. **Disputes.**

    a. In the event a bona fide dispute concerning a question of fact arises between DSHS and the Contractor that cannot be resolved between the parties, either party may initiate the dispute resolution procedure provided herein.

    b. The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) Business Days (which shall mean Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington). The initiating party shall have three (3) Business Days to review the response. If after this review a resolution cannot be reached, both parties shall have three (3) Business Days to negotiate in good faith to resolve the dispute.

        (1) If the dispute cannot be resolved after three (3) Business Days, a dispute resolution panel may be requested in writing by either party who shall also identify the first panel member. Within three (3) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the dispute resolution panel within the next three (3) Business Days.

        (2) The dispute resolution panel will review the written descriptions of the dispute, gather additional information as needed, and render a written decision on the dispute in the shortest practical time.

        (3) Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

    c. Unless irreparable harm will result, the parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

    d. Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a dispute resolution panel whenever possible.

    e. Except to the extent that disclosure is required by applicable law or court order, all negotiations pursuant to this clause are confidential and shall be treated by the parties as statements made in compromise negotiations for purposes of the rules of evidence.

f. DSHS and the Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

g. If the subject of the dispute is the amount due and payable by DSHS for services being provided by the Contractor, the Contractor shall continue providing services pending resolution of the dispute provided DSHS pays the Contractor the amount DSHS, in good faith, believes is due and payable, and may withhold the difference between such amount and the amount the Contractor, in good faith, believes is due and payable.

25. **Health and Safety**. The Contractor shall perform any and all of its obligations under this Contract in a manner that does not compromise the health or safety of any DSHS client with whom the Contractor has contact.

26. **Indemnification and Hold Harmless**.

a. 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 or 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.

b. 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.

c. 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.

d. 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.

27. **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.

28. **Limitation of Liability.**

a. The Parties agree that neither the Contractor nor DSHS shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract.

b. This section does not modify any sections or any other conditions as are elsewhere agreed to herein between the parties. The following are not considered consequential, incidental, indirect, or special damages as the term is used in the foregoing section.

(1) Claims pursuant to any provision of this Contract calling for liquidated damages;

(2) Claims for attorney's fees and other litigation costs DSHS becomes entitled to recover as a prevailing party in an action;

(3) Claims for physical damage to real or tangible property;

(4) Claims arising from reckless or intentional misconduct;

(5) Amounts due or obligations under the following sections, if included: (i) indemnification; (ii) intellectual property indemnification; (iii) inspection and maintenance of records; (iv) damages resulting from default; (v) data security requirements; (vi) or breaches of confidentiality including disclosure of PHI; or

(6) Any loss or claim to the extent the loss or claim is covered by a policy of insurance maintained, or required by this contract to be maintained, by the Contractor.

c. Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

29. **Notice of Overpayment**. If the Contractor receives a Contractor 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:

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 Contractor 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.

30. **Ownership/Rights in Data**.

a. Both Custom Services and Commercial Off-The-Shelf material that is delivered under this Contract, but that does not originate therefrom ("Preexisting Material"), shall be transferred to DSHS with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, display, and dispose of such Preexisting Material, and to authorize others to do so except that such

license shall be limited to the extent to which Contractor has a right to grant such a license. The Contractor shall exert all reasonable effort to advise DSHS at the time of delivery of Preexisting Material furnished under this Contract, of all known or potential infringements of publicity, privacy or of intellectual property contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor agrees to obtain, at its own expense, express written consent of the copyright holder for the inclusion of Preexisting Material. DSHS shall receive prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right worldwide received by the Contractor with respect to any Preexisting Material delivered under this Contract. DSHS shall not have the right to modify or remove any restrictive markings placed upon the Preexisting Material by the Contractor.

b. Custom Services. If this Contract involves custom service, the below sections (b)(1) through (4) apply.

   (1) DSHS and the Contractor agree that all data and work products (collectively called "Work Product") produced pursuant to this Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 et seq, and shall be owned by DSHS. The Contractor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product.

   (2) If for any reason the Work Product would not be considered a work made for hire under applicable law, the Contractor assigns and transfers to DSHS the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

   (3) The Contractor shall execute all documents and perform such other proper acts as DSHS may deem necessary to secure for DSHS the rights pursuant to this section.

   (4) The Contractor shall not use or in any manner disseminate any Work Product to any third party, or represent in any way Contractor ownership in any Work Product, without the prior written permission of DSHS. The Contractor shall take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors shall not copy or disclose, transmit or perform any Work Product or any portion thereof, in any form, to any third party.

c. Commercial Off-The-Shelf. If this Contract involves commercial off-the-shelf products, the below sections (c)(1) through (3) apply.

   (1) The Contractor shall maintain all title, copyright, and other proprietary rights in the Software. DSHS does not acquire any rights, express or implied, in the Software, other than those specified in this Contract. Contractor hereby warrants and represents to DSHS that Contractor is the owner of the Software licensed hereunder or otherwise has the right to grant to DSHS the licensed rights to the Software provided by Contractor through this Contract without violating any rights of any third party worldwide.

   (2) The Contractor represents and warrants that Contractor has the right to license the Software to DSHS as provided in this Contract and that DSHS' use of the Software and documentation within the terms of this Contract will not infringe upon any copyright, patent, trademark, or other

intellectual property right worldwide or violate any third party's trade secret, contract, or confidentiality rights worldwide.

(3) The Contractor represents and warrants that: (i) Contractor is not aware of any claim, investigation, litigation, action, suit or administrative or judicial proceeding pending or threatened based on claims that the Software infringes any patents, copyrights, or trade secrets of any third party, and (ii) that Contractor has no actual knowledge that the Software infringes upon any patents, copyrights, or trade secrets of any third party.

31. **Patent and Copyright Indemnification**.

a. The Contractor, at its expense, shall defend, indemnify, and hold DSHS harmless from and against any claims against DSHS that any Product or Work Product supplied hereunder, or DSHS's use of the Product or Work Product within the terms of this Contract, infringes any patent, copyright, utility model, industrial design, mask work, trade secret, trademark, or other similar proprietary right of a third party worldwide. Product shall mean any Contractor-supplied equipment, Software, or documentation. The Contractor shall pay all costs of such defense and settlement and any penalties, costs, damages and attorneys' fees awarded by a court or incurred by DSHS provided that DSHS:

(1) Promptly notifies the Contractor in writing of the claim, but DSHS's failure to provide timely notice shall only relieve the Contractor from its indemnification obligations if and to the extent such late notice prejudiced the defense or resulted in increased expense or loss to the Contractor; and

(2) Cooperates with and agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant the Contractor sole control of the defense and all related settlement negotiations.

b. If such claim has occurred, or in the Contractor's opinion is likely to occur, DSHS agrees to permit the Contractor, at its option and expense, either to procure for DSHS the right to continue using the Product or Work Product or to replace or modify the same so that they become non-infringing and functionally equivalent. If use of the Product or Work Product is enjoined by a court and the Contractor determines that none of these alternatives is reasonably available, the Contractor, at its risk and expense, will take back the Product or Work Product and provide DSHS a refund. In the case of Work Product, the Contractor shall refund to DSHS the entire amount DSHS paid to the Contractor for the Contractor's provision of the Work Product. In the case of Product, the Contractor shall refund to DSHS its depreciated value. No termination charges will be payable on such returned Product, and DSHS will pay only those charges that were payable prior to the date of such return. Depreciated value shall be calculated on the basis of a useful life of four (4) years commencing on the date of purchase and shall be an equal amount per year over said useful life. The depreciation for fractional parts of a year shall be prorated on the basis of three hundred sixty-five (365) days per year. In the event the Product has been installed less than one (1) year, all costs associated with the initial installation paid by DSHS shall be refunded by the Contractor.

c. The Contractor has no liability for any claim of infringement arising solely from:

(1) The Contractor's compliance with any designs, specifications or instructions of DSHS;

(2) Modification of the Product or Work Product by DSHS or a third party without the prior knowledge and approval of the Contractor; or

(3) Use of the Product or Work Product in a way not specified by the Contractor;

unless the claim arose against the Contractor's Product or Work Product independently of any of these specified actions.

d. This Section, *Patent and Copyright Indemnification*, is intended to survive the expiration or termination of the agreement.

32. **Public Records Act.** The Contractor acknowledges that DSHS is subject to the Public Records Act (Chapter 42.56 RCW) and that this Contract is a public record as defined in Chapter 42.56 RCW. Any specific information that is claimed by the Contractor to be Proprietary Information must be clearly identified as such by the Contractor. **"Proprietary Information"** means information owned by the Contractor to which the Contractor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws. To the extent consistent with Chapter 42.56 RCW, DSHS will maintain the confidentiality of all such information marked Proprietary Information. If a public disclosure request is made to view the Contractor's Proprietary Information, DSHS will notify the Contractor of the request and of the date that such records will be released to the requester unless the Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the Contractor fails to obtain the court order enjoining disclosure, DSHS will release the requested information on the date specified.

33. **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.

34. **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.

35. **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.

36. **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 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.

37. **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.

38. **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.

39. **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.

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.

40. **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.

41. **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.

42. 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:

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.

43. 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.

44. 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.

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.

n. "Use" includes the sharing, employment, application, utilization, examination, or analysis, of PHI within an entity that maintains such information.

45. **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.

46. **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.

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.

47. 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.

(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).

48. 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) .

49.   **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).

50.   **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.

51.   **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.

   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.

52. 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 & CONDITIONS *[NOTE TO BIDDERS: The Special Terms & Conditions may change and will be finalized as part of contract negotiations with the Apparently Successful Bidder.]*

1. **Definitions.** The words and phrases listed below, as used in this Contract, shall each have the following definitions:

   a. "Accept" or "Acceptance" means a written notice from DSHS to Contractor that a Deliverable has met the specifications set forth in the Contract. Such Acceptance may be in electronic form.

   b. "Acceptance Test(s)" means the tests that are performed by DSHS to determine there are no Defects in any of the Deliverables and that must be satisfied before Acceptance can occur as set forth in Exhibit B, Statement of Work, Section 17.

   c. "Agency" means the Washington State Department of Social and Health Services, and is interchangeable with "DSHS".

   d. "Business Requirement Document" means the written document that describes in detail all of the processes that will be implemented, detailed requirements, and will be used to ensure that the product meets the detailed specifications and achieves the desired results.

   e. "Calendar day" means every day on the calendar, Monday through Sunday including state and federal holidays.

   f. "Change Order" means a response in written form to a Change Request, which is mutually agreed to in writing and signed by both parties to the existing Contract, that modifies, deletes, or adds, in whole or in part, to the Deliverables or services in the existing Contract, and that is made in accordance with and within the scope of the original Contract.

   g. "Change Request" means a request in written form, submitted by either Party to the existing Contract, to modify, delete, or add, in whole or in part, to the Deliverables or services of the Contract, made in accordance with and within the scope of the original Contract.

   h. "Client" or "Participant" means an individual that is eligible for or receiving services provided by ORIA service providers.

   i. "CMS" means Case Management and Database Solution.

   j. "Contract Manager" means the DSHS Contact named on page 1 of this Contract.

   k. "Data" means information accessed, gained, disclosed or exchanged while providing services in accordance with this Contract.

   l. "Defect" means any failure, omission, or defect in a Deliverable that causes the Deliverable not to conform to its requirements.

   m. "Deliverable" means the Work Product and other output of the Services required to be delivered by Contractor as part of the Services, as specified in this Contract.

   n. "Documentation" means any manuals, End User documentation, technical and system documentation, instructions, or other documents or materials that Contractor provides or makes available to DSHS in any form or medium and which describe the functionality, components, features, or requirements of the Services including any aspect of the installation, configuration, integration, operation, use, support, or maintenance of the foregoing.

o. "Downtime" shall mean the time during which the Solution is not performing its business operations or functions in accordance with Specifications, measured on [to be negotiated]. Downtime begins when DSHS notifies Contractor that the Solution fails to be operational. Downtime continues until the DSHS determines the Solution has been returned to operational status in accordance with the Specifications.

p.   "End User" means a natural person or entity utilizing the Solution to submit or transfer data to DSHS, and is interchangeable with "User".

q.   "Family" means immediate members of an individual's household, including parent(s) or spouse(s) and children.

r.   "Go-Live Date" means the date the Solution is placed in production and being used by DSHS and authorized Users.

s.   "Implementation Phase" means the time period between Contract execution and the date of full implementation and productive use by End Users of the Solution.

t.   "ORIA" means the Office of Refugee and Immigrant Assistance within the Community Services Division of DSHS.

u.   "ORR" means the federal Office of Refugee Resettlement located within the Administration for Children and Families, Department of Health and Human Services that administers the national refugee program.

v.   "Party or Parties" shall mean DSHS or Contractor, and DSHS and Contractor together.

w.   "Project" means the ORIA Case Management and Database Solution Project procured under DSHS RFP# 2323-833.

x.   "Project Manager" means the entity or DSHS staff member responsible for management of the Project.

y.   "Project Team" means the team comprised of DSHS and ORIA employees responsible for guiding decision-making related to the Project.

z.   "RCW" means the Revised Code of Washington. All references to RCW chapters or sections shall include any successor, amended, or replacement statute.

aa. "Refugee" means a person who is unable to return to his/her home country because of race, religion, nationality, membership in a particular social group, or political opinion.

bb. "Service Outage" means a total loss of the Solution availability to End Users.

cc. Services" means the tasks and services to be performed by Contractor as described in this Contract.

dd. "Service Provider" means ORIA contracted parties that provide services to a Client.

ee. "Software" or "the Software" means the Contractor's software solution or software service.

ff. "Solution" means the systems, platform, licenses and all required and necessary products and Services, including but not limited to software, extensions, interfaces, custom-developed software, documentation, designs, diagrams, configurations, functional specifications, technical

specifications, data transformations, data aggregations, schematics, architectural renderings, prototypes, screen layouts, hardware, appliance, or other physical material or equipment, and other documents and materials developed, provided, or prepared by Contractor for DSHS, either alone or jointly with DSHS, pursuant to this Contract.

gg. "Subcontract" means any separate agreement or contract between the Contractor and an individual or entity to perform all or a portion of the duties and obligations that the Contractor is obligated to perform pursuant to this Contract.

hh. "Subcontractor" means an individual or other entity contracted by the Contractor to perform part of the Services or to provide goods under the Contract. Subcontractors, if allowed, are subject to the advance approval of DSHS.

2.   **Purpose.** The purpose of this Contract is to license, implement, support, and maintain a Case Management and Database Solution system for DSHS' ORIA. DSHS enters into this Contract as the result of DSHS RFP #2323-833.

3.   **Solicitation Certification.** All representation or certifications made by Contractor in Request for Proposal (RFP) DSHS #2323-833 or its attachments are hereby incorporated by reference into this Contract. In the event of a conflict between the Contract and those documents, the Contract term shall prevail.

4.   **Licensed to do Business in Washington.** The Contractor shall be licensed and registered to conduct business in Washington throughout the Period of Performance of this Contract. The Contractor shall immediately notify DSHS if the Contractor's business license status changes during the Period of Performance of this Contract.

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 in the attached Exhibit B, Statement of Work.

6.   **Consideration.** The total amount payable to the Contractor for satisfactory performance of the work under this Contract is not to exceed the Contract Maximum Amount shown on page one (1) of this Contract, and includes any and all expenses, and shall be paid in accordance with the amounts set forth in the Exhibit B, Statement of Work.

7.   **Billing and Payment.**

a.   **Invoice System.** The Contractor shall submit invoices using State Form A-19 Invoice Voucher, or such other form as designated by DSHS. Consideration for Services rendered shall be payable upon receipt of properly completed invoices which shall be submitted by the Contractor not more often than monthly. The invoices shall describe and document to DSHS' satisfaction a description of the work performed, activities accomplished, and fees. The rates shall be in accordance with those set forth in Exhibit B, Statement of Work, Section 22, Consideration, of this Contract.

b.   **Payment.** Payment shall be considered timely if made by DSHS within thirty (30) days after receipt and acceptance of the properly completed invoices. Payment shall be sent to the address designated by the Contractor on page one (1) of this Contract. DSHS may at its sole discretion, withhold payment claimed by the Contractor for Services rendered if Contractor fails to satisfactorily comply with any term or condition of this Contract.

8.   **Background Checks.** The Contractor acknowledges and agrees that personnel responsible for administering this project may have access to individuals' confidential or sensitive information.

Accordingly, Contractor shall ensure that any Contractor personnel whose duties include access to such information in the administration of this program shall undergo a criminal background check. Contractor will use best efforts to ensure that subcontractors' personnel who may have access to individuals' confidential or sensitive information have completed a background check. An online background check from the Washington State Patrol WATCH service, https://www.wsp.wa.gov/crime/criminal-history/, will suffice to meet this requirement.

Any individual whose background check reveals a criminal record history that includes any conviction for any crime(s) associated with fraud, deceit or dishonesty shall be disqualified from any aspect of this project involving access to project data and clients' personal information. For purposes of determining whether or not a crime is associated with fraud, deceit or dishonesty, Contractor may refer to the DSHS Secretary's List of Crimes for Programs for employees who have access to Federal Tax Information (FTI) (https://www.dshs.wa.gov/sites/default/files/bccu/documents/ListofCrimesFTI.pdf).

9. **Change in Circumstances.** The Contractor shall forward to DSHS within ten (10) working days any information concerning the Contractor's change of circumstances. Changes in the Contractor's circumstances include change of business name, address, telephone number, e-mail address, business status, and names of staff associated with this contract. Any changes that occur in the Contractor's program or subcontractors affecting program implementation, or deviations from any of the Services as described in this Contract, must be acknowledged in writing to DSHS.

10. **Contract Amendment.** The Contract may be amended to ensure that Services and outcomes align with DSHS's needs or due to availability of funding.

11. **Contract Extensions.** DSHS may make subsequent Contract awards or extensions at DSHS' sole discretion. DSHS will base such future awards or extensions on the Contractor's ability to comply with the terms and conditions of this Contract and to meet the requirements of the statement of work of this Contract.

12. **Contract Suspension.** DSHS may take certain actions in the event the Contractor, or any of its Subcontractors, partners, officers, directors, or employees, are investigated by a local, county, state or federal agency for a matter which DSHS determines may adversely affect the delivery of Services provided under this Contract. DSHS may, without prior notice, either suspend the delivery of Services or disallow the person(s) involved in the allegation(s) from providing Services or having contact with participants pending final resolution of the investigation.

13. **Contract Monitoring.**

    a. DSHS may conduct on-site monitoring visits to ensure the Contractor's (and subcontractor's) performance and compliance with these Contract terms and conditions, and applicable laws and regulations.

    b. The Contractor shall allow DSHS to inspect all records that are related to the performance of and compliance with this Contract. As used in this subsection, "records" include but are not limited to documents in any form, including hard copy or electronic format, of the organization's structure, financial records, capacities and performance.

    c. DSHS reserves all other rights of inspection as provided in the General Terms and Conditions of this Contract.

    d. In the event that on-site monitoring is impossible or infeasible, DSHS may conduct desktop monitoring using different secure DSHS platforms, such as WebEx and Zoom to review and monitor records.

Special Terms and Conditions

14. **Compliance with Corrective Action Plan.** In the event that DSHS identifies deficiencies in the Contractor's performance under this Contract, DSHS may, at its option, establish a Corrective Action Plan. When presented with the Corrective Action Plan, the Contractor agrees to undertake the action specified in the plan within the timeframes given to correct the deficiencies. The Contractor's failure to do so will be grounds for termination of this Contract.

15. **Duplication of Services.** The Contractor shall ensure that work to be performed does not duplicate services charged to the State of Washington or any other funding source under any other contract or agreement with the Contractor.

16. **Exceptions**. The Contractor shall submit to the DSHS Contact, or designee, named on page one (1) of this Contract, a prior written request for any exceptions. The DSHS Contact shall provide the Contractor with written approval or denial within five (5) business days of receipt of the request. The DSHS Contact shall include justification with all denials.

17. **Fraud Reporting.** The Contractor shall report any knowledge of welfare fraud to DSHS by calling 1-800-562-6906 or on-line at [Office of Fraud and Accountability | DSHS (wa.gov)](https://www.dshs.wa.gov).

18. **Subcontracting.** In addition to the requirements of the General Terms and Conditions, Section 35, Subcontracting of this Contract, the Contractor shall:

    a. Submit requests to subcontract to the DSHS Contact, or designee, named on page one of this contract along with the proposed subcontractor's qualifications and a copy of the subcontract.

    b. Submit any change of subcontractors within five business days of the change to the DSHS Contact, or designee, named on page one of this Contactor.

    c. Submit a plan for monitoring subcontracts to the DSHS Contact, or designee, named on page one of this contract, and:

       (1) Submit any changes to monitoring plan within ten (10) business days of change.

       (2) Submit a copy of the monitoring report within fifteen (15) days of the monitoring visit.

19. **Ownership of Materials.**

    a. Contractor shall provide to DSHS, for DSHS internal purposes, a perpetual license to use material created for, or used in, the performance of the Contract. This license shall be provided at no charge to DSHS, and is limited to the extent to which the Contractor has a right to grant such a license.

    b. This material includes but is not limited to: documents, films, pamphlets, reports, studies, surveys, tapes, and training materials.

20. **Service Level Agreements (SLA).**

    a. **Commitment to Comply With All SLAs.** Contractor shall perform all Services in accordance with, and in such a manner as to meet the service level requirements set forth in this Contract (each, an "SLA"). The Contractor shall comply with all SLAs set forth in Exhibit X, Service Level Agreement.

    b. **Measurement and Reporting.** The Contractor shall measure its performance against the SLAs in accordance with the methodologies specified in Exhibit X, Service Level Agreement and shall provide a detailed, comprehensive report of its performance against the SLAs during each applicable reporting period ("SLA Reports") by the tenth (10th) business day following the end of the

applicable reporting period. For continuing failures that occur in consecutive measurement intervals within a month, the Contractor shall report such failures in the month such failures commence. The Contractor shall meet with DSHS at least monthly, or more frequently if requested by DSHS, to review the Contractor's actual performance against the SLAs and shall recommend remedial actions to resolve any performance deficiencies. Notwithstanding the foregoing, all reporting on SLAs shall cover the results of SLA performance during the applicable Measurement Interval, regardless of the Reporting Period, and shall not be construed to limit the Contractor's obligations to comply with all SLAs as per the applicable Measurement Interval. Any failure by DSHS to analyze and enforce SLAs shall not be deemed a waiver of such performance standards. In the case where one or more SLAs are not able to be validated as contemplated by this Section, the parties will negotiate in good faith to establish meaningful SLA(s) to replace such SLA(s).

c. **Root-Cause Analysis and Resolution.** Promptly, but in no event later than five (5) calendar days after the Contractor's discovery of, or if earlier, the Contractor's receipt of a notice from DSHS regarding, the Contractor's failure to provide any of the Services in accordance with the SLAs, or for the existence of an issue, the Contractor shall, as applicable under the circumstances:

(1) Perform a root-cause analysis to identify the cause of such failure/issue;

(2) Provide DSHS with a written report detailing the cause of, and procedure for correcting those failures/issues that are under the Contractor's control; and

(3) Provide DSHS with satisfactory evidence that the Contractor has taken or will take commercially reasonable remedial steps to ensure that such failure/issue will not recur to the extent under the Contractor's control.

To the extent the cause of failures/issues are not under the Contractor's control, including without limitation, the scenarios described in Section 22(d)(i)-(iii) below, then the Contractor may suggest appropriate corrective measures to the extent commercially reasonable. The correction of any such failures/issues shall be performed in accordance with the time frames set forth by DSHS entirely at the Contractor's expense unless it has been determined, by mutual agreement of the parties or through the dispute resolution process specified in this Contract, that DSHS (or one of its subcontractors, agents or third parties provided by DSHS) was a direct contributing cause of the failure/issue and the Contractor could not have worked around the failure/issue without expending more than commercially reasonable efforts. In such event the Contractor shall be entitled to temporary relief from its obligation to comply with the affected SLA in a timely fashion, but only to the extent and for the duration so affected.

d. **Relief from SLAs.** Contractor will not be liable for any failure to meet a SLA, and the applicable Fee Reductions, if such failure was due to causes beyond Contractor's reasonable control including, without limitation, (i) force majeure events, (ii) the acts or omissions of DSHS or any third party other than Subcontractors or Contractor staff (including the availability or performance of software, hardware, and infrastructure provided by DSHS or any third party other than Subcontractors or Contractor staff) or (iii) the Contractor did not have an affirmative duty under the Agreement to prevent such a failure. Contractor shall be entitled to temporary relief from its obligation to comply with the affected SLA in a timely fashion, but only to the extent and for the duration so affected.

e. **SLA Fee Reduction.** Service Level Agreement (SLA) fee reductions for failure to meet SLAs ("Fee Reductions") have been built into Exhibit X, Service Level Agreements to encourage the Contractor to meet committed service levels and provide a mechanism to document performance. The parties acknowledge and agree that said Fee Reductions are intended to reflect the diminished value of the Services as a result of any service level failure. Such Fee Reductions do not constitute penalties or

damages, but rather are intended to equate the fee for services to that level of service being provided. Fee Reductions shall be reduced from the total payment provided to the Contractor each month upon non-compliance with a SLA(s). All Fee Reductions are set forth in Exhibit X and are subject to the approval of the DSHS Contract Manager, or designee. The assessment of Fee Reductions as set forth herein shall constitute DSHS's sole and exclusive monetary remedy and the sole and exclusive obligation of Contractor, with respect to Contractor's failure to comply with any SLA. The assessment of Fee Reductions shall not constitute a waiver or release of any other monetary or non-monetary remedy DSHS may have under the Contract for the Contractor's failure or breach giving rise to the missed SLA, including without limitation, DSHS's right to terminate this Contract.

21. **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 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, 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.

o. Business Automobile Liability Insurance

The Contractor shall maintain a Business Automobile Policy on all vehicles used to transport clients, including vehicles hired by the Contractor or owned by the Contractor's employees, volunteers or others, with the following minimum limits: $1,000,000 per accident combined single limit. The Contractor's carrier shall provide DSHS with a waiver of subrogation or name DSHS as an additional insured.

p. 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.

q. Technology Professional Liability (errors and omissions)

The Contractor shall maintain Technology Professional Liability (errors and omissions) insurance, to include coverage of claims involving infringement of intellectual property. This shall include but is not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations,

information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, network security, regulatory defense (including fines and penalties), and notification costs. The coverage limits must be at least $1,000,000 per covered claim without sublimit, and $2,000,000 annual aggregate.

r.   Crime and Employee Dishonesty

The Contractor shall maintain Employee Dishonesty and (when applicable) Inside/Outside Money and Securities coverages for property owned by the State of Washington in the care, custody, and control of Contractor, to include electronic theft and fraud protection. The coverage limits must be at least $1,000,000 per covered claim without sublimit, $2,000,000 annual aggregate.

s.   Cyber Risk Liability Insurance

The Contractor shall maintain coverage for Cyber Risk Liability, including information theft, computer and data loss replacement or restoration, release of private information, alteration of electronic information, notification costs, credit monitoring, forensic investigation, cyber extortion, regulatory defense (including fines and penalties), network security, and liability to third parties from failure(s) of contractor to handle, manage, store, and control personally identifiable information belonging to others. The policy must include full prior acts coverage. The coverage limits must be at least $1,000,000 per covered claim without sublimit, $2,000,000 annual aggregate.

22.   **Recovery of Payments for Noncompliance.** In the event the Contractor bills for Services provided and is paid for those Services that DSHS later finds were either (a) not delivered, (b) unallowable, or (c) not delivered in accordance with applicable standards or the requirements of this Contract, DSHS shall have the right to recover payment for those Services from the Contractor and the Contractor shall fully cooperate during the recovery process.

23.   **Reduction of Funds.** DSHS reserves the right to adjust any estimates provided to Contractor under this Contract and to reduce funding accordingly. In the event DSHS chooses to exercise this right, DSHS will notify the Contractor in writing of the amount of the reduction. Both parties to this Contract agree that an amendment to this Contract will be considered proper written notice.

24.   **Order of Precedence.** The documents listed below are hereby incorporated into this Contract by reference. In the event of any inconsistency, the inconsistency shall be resolved by giving precedence in the following order:

a.   Applicable federal and Washington state laws and regulations;

b.   General Terms & Conditions and Special Terms & Conditions contained in this Contract and terms contained in Exhibit A – Data Security Requirements;

c.   Terms & Conditions as contained in any other additional Exhibits or Attachments to this Contract;

d.   DSHS Solicitation RFP #2323-833 including any and all Exhibits or Attachments;

e.   Contractor's bids to the DSHS Solicitation RFP # 2323-833;

f.   Any other provisions of this Contract incorporated by reference or otherwise.

Exhibits

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), 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.

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

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:

(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

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.

(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.

(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.

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:

Data stored on:	Will be destroyed by:
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. 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 sub-Contractor must be submitted to the DSHS Contact specified for this contract for review and approval.

Exhibits

Exhibit B – Statement of Work

Case Management and Database Solution System

[NOTE TO BIDDERS: The Statement of Work (SOW) may change and will be finalized during contract negotiations with the Apparently Successful Bidder.]

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. The Parties intend that the Services and Deliverables will be accomplished by relying on Agile development principles to the extent appropriate and through active and ongoing collaboration between state staff, Contractor's Key Personnel and other resources.

1. **Administrative Requirements.**

   a. The Contractor shall ensure that all Contractor's staff assigned to the Project or working with Project data must sign:

      (1) 02-604a Non-Employee System Access form.

      (2) 03-344 Internet Access form.

      (3) DSHS 03-374D Economic Services Administration Nondisclosure of Confidential Information Agreement – Non Employee Form. This form must be signed annually by Contractor staff who have access to client confidential and personal information as it relates to contracted Services. A copy of the form must be sent to the DSHS Contact listed on page one (1) of this Contract within 30 days of the Contract start date.

      (4) 03-443 Remote Access.

      (5) If the Contractor has access to FTI, the 03-490 IRS Safeguard Training Certification form is also required on an annual basis.

   b. Contractor personnel shall be subject to security clearances and provided with security and safety training by the Contractor and DSHS for consistency with any applicable policies and/or practices of DSHS that are applicable to DSHS third-party contractors.

   c. Contractor will pay for all costs associated with ensuring their staff meets all requirements.

2. **Accessibility**

   The Contractor is required to represent and warrant that they will exercise commercially reasonable efforts to comply with the Office of Chief Information Officer (OCIO) Standard 188.10 – Minimum Accessibility Standard located at https://ocio.wa.gov/policy/minimum-accessibility-standard. The Contractor will additionally be required to regularly review its systems and at the commencement of the Contract, and annually thereafter, certify to DSHS that their Services meet OCIO Standard 188.10.

3. **Project Management.**

   a. DSHS has completed initial high-level project planning. The CMS Project (Project) scope is defined, constraints and assumptions have been captured, project governance has been established and the preliminary project schedule has been developed. DSHS will work with the Contractor to bring the Contractor up to speed on the project and make adjustments as necessary.

   b. The Contractor will participate in the CMS Project Team's activities, as needed, such as:

    (1) Utilize standard project management principles, tools and techniques, and

    (2) Work with the CSD Project Manager to ensure successful initiation, planning, execution, monitoring and control, and close out the CMS Project and each deliverable.

4. **Communication and Coordination.**

    a. The DSHS Program Manager listed on Page One (1) of this Contract or a designee shall serve as the DSHS point-of-contact (POC) for the contract. The CSM Project Manager or a designee shall serve as the DSHS POC for the CMS Project.

    b. The Contractor shall designate and provide the name(s) of the Contractor's POC(s) to DSHS.

    c. Both parties shall oversee and manage the case management and database solution (Solution) communication and coordination for their respective sides and are responsible for the cooperative relationship required to ensure that appropriate Services are provided in a timely manner and the delivery of the Solution meets the needs of ORIA. This may include:

        (1) Kick-off Meeting with the Contractor, ORIA and the CMS Project Team to meet-and-greet, identify POCs, and review roles and responsibilities. The parties at a high-level will review the contract's purpose, planned outcomes and negotiated deliverables, as well as, key milestones and schedule, etc.

        (2) Frequent standing or scheduled meetings between POCs.

        (3) Scheduling and facilitating meetings with members of either or both parties, as needed.

    d. Both parties shall determine communication and coordination processes, procedures and protocol for approval and final decision making pertaining to the work and services to be provided under this Contract.

5. **Solution Requirements Gathering, Analysis, and Design Services.**

    a. The Contractor shall perform requirements gathering, analysis and design Services to determine and accomplish the scope of the desired Solution.

    b. Requirements and Analysis.

        (1) Contractor will review requirements collected to date by ORIA, as well as conduct requirements gathering as needed, allowing ORIA Program subject matter experts opportunities to clarify and elaborate on business and technical needs, for Contractor to understand and develop business requirements documents recording Solution configuration needs.

        (2) Contractor will identify and document gaps of functionality (ORIA requirements not met by the Solution functionality) and develop business requirements documents recording Solution enhancements and/or customizations needed.

        (3) Contractor will submit proposed enhancement plans, including expected timeframe and pricing, to ORIA for approval, negotiation or rejection.

        (4) Contractor will recommend business process improvements for future state processes using the identified Solution, including documenting the future state processes.

    c. Design Services.

        (1) The Contractor will create high-level design and architecture for ORIA's Solution and review with ORIA and refine, as needed, before configuration of the Solution begins.

        (2) The Contractor shall recommend and implement design solutions that meet ORIA business needs. The design Services will cover conceptual and physical architecture, and functional and technical design.

        (3) The design solutions must utilize the core functionality of the Solution. If requested functionality cannot be achieved with core functionality, the Contractor shall present design options, including customization, and timeframe(s) to ORIA for approval.

        (4) Contractor will create and update overall architecture and design documents and update proposed customizations list as necessary.

6.   **Work Plan and Schedule Development.**

    a. The Contractor shall submit a work plan and schedule breakdown to ORIA. The Contractor shall understand ORIA's constraints described in subsections (1) and (2) below. The Contractor must discuss the feasibility of meeting the estimated timeframes for ORIA's proposed implementation. The schedule should incorporate the following constraints:

        (1) The Solution is expected to be fully implemented within 12 months from contract execution.

        (2) If the Solution cannot be fully implemented within 12 months from contract execution date, DSHS may provide a 1-year extension via amendment to implement the Solution. DSHS shall amend the Contract to extend the Solution implementation period to no later than 24 months from the Contract start date.

    b. The Contractor, in partnership with ORIA, shall develop a work plan and schedule that includes, but is not limited to the following:

        (1) <u>Discovery, Requirements and Planning</u>, including meeting with DSHS and ORIA staff for discovery to understand ORIA programs' case management and database solution needs and gather business requirements; determine Solution configuration/customization scope, timelines and pricing; and plan Solution implementation approach.

        (2) <u>Design, Implementation Plan and Acceptance Process</u>, including timeline and process for submission of Solution design to ORIA, ORIA's review and acceptance, and implementation steps required to Go Live.

        (3) <u>Data Migration</u>, including timeline and process for data conversion, data validation and testing, and steps required to migrate Excel data into the Solution prior to Go Live.

        (4) <u>Training</u> for ORIA staff and other authorized End Users.

        (5) <u>Pre/Post Go Live Requirements</u> to include a process and plan for pre-Go Live activities and post Go Live support and Change Requests as discovered after usage.

    c. The Contractor shall provide to ORIA a detailed Solution Workplan and schedule covering all the phases and components for implementation within 45 days of the Contract start date for approval by ORIA and agreement between the parties.

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7. **Work Plan Implementation.** *[NOTE TO BIDDERS: The Apparently Successful Bidder's proposed Solution Implementation Approach(es) approved by ORIA will be incorporated into this section.]*

    a. The Contractor shall implement the approved Solution work plan that includes but is not be limited to:

    (1) Configure and/or customize the proposed software Solution to meet ORIA's business needs.

    (2) Convert ORIA programs' data in Excel into the Solution, including data review and validation.

    (3) Plan for Solution testing with time built-in for modifications, as needed. Provide ORIA User Access to the Solution and provide instruction to ORIA staff on how to review and test the Solution to ensure all requirements are met.

    (4) Complete necessary subscription and/or licensing for ORIA and End Users, providing Users access.

    (5) Install, launch, update, and manage the Solution that will be used by ORIA staff and authorized Service Provider staff Users to enter data content into the system.

    (6) Provide training instructions to End Users.

    (7) Provide ongoing Solution support and maintenance.

    (8) Provide system mapping documentation, upon request.

8. **Data Migration.** The Contractor shall:

    a. Provide data migration Services to migrate Excel spreadsheets to the new Solution prior to Go Live.

    b. Submit data migration plans for each ORIA program with data stored on Excel for data conversion.

    c. Provide guidance on best approaches and recommend best practices and tools for data migration and data cleanup.

    d. Provide automated data cleanup where possible.

    e. Facilitate data migration design and implementation for ORIA programs into the Solution.

    f. Import all cleaned data into the Solution.

    g. Coordinate and ensure successful data migration.

    h. Instruct ORIA staff and assist in testing data migration success, if needed or requested.

9. **Testing Services.**

    a. Contractor will develop and carry out a comprehensive test plan for data migration and the Solution.

    b. Test cases may be added, removed, or elaborated further during the planning, analysis and design iterations. ORIA will provide input to, and give final approval of, the test plan.

    c. Before delivering and installing the Solution, the Contractor must:

(1) Test the Solution to confirm that it is fully operable, meets all applicable specifications and will function in accordance with ORIA's system business needs when properly installed in the operating environment.

(2) Scan to confirm it is free of Surreptitious Code; and

(3) Remedy any non-conformity or Surreptitious Code identified and retest and rescan the Solution.

10. Go Live.

a. Contractor will provide a Go Live assessment plan and activities plan for ORIA approval. The purpose of the plan is to identify and assess readiness for transition to production, and to document planned activities for going live. ORIA may identify additional readiness criteria at any time.

b. The Contractor must provide administration, go-live and post go-live support, as requested by ORIA.

11. Training Services. The Contractor shall:

a. Recommend and carry out training approaches that meet different End Users' access level and operational needs. The training materials and approaches should address Solution-specific configurations and enhancements that meet ORIA's holistic and diverse programs' case management needs.

b. The Contractor will provide a course outline and description for each of the following types of training:

(1) **Business Configuration/Administrator** will be responsible for back-end tables, listings, and other readily easy and available Solution modifications that is deemed appropriate to be managed by ORIA Administrator. The training will give the knowledge and skills necessary to be able to configure within the Solution to meet changing business process and operational needs without the on-going assistance from the Contractor.

(2) **ORIA Staff/End Users** will be expected to have full access to Solution functionality and will be expected to provide user training to and perform as the first level helpdesk for Service Providers' staff/End Users after go live.

(3) **Service Provider Staff/End Users** will be expected to use the Solution for their respective ORIA program(s)' business processes. ORIA intends to train these Users with Contractor support and assistance in developing the training.

c. The Contractor must provide available training options and include details such as: typical class size, materials to be provided, class duration, on-site or web based. The Contractor must include details such as the training and support personnel name, contact information, and hours available.

d. Train End Users on the use of the Solution. The Contractor will provide training on the functionalities implemented within the Solution. Training sessions shall be conducted via Webinar or other virtual/online conferencing platforms, and/or via phone, or other means as necessary to promote learning and understanding for Solution usage and ensure Users are comfortable with the Solution.

e. Develop a System User Manual for End Users.

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    f.   The Contractor shall train ORIA staff prior to Go Live, as well as, before any subsequent new functionalities are released.

12.   Solution Documentation.

    a.   Contractor must provide all user manuals, operating manuals, technical manuals, systems mapping, architectural diagrams, and any other instructions, specifications, documents or materials, in any form or media, that describe the functionality, installation, testing, operation, use, maintenance, support, technical or other components, features or requirements of the Solution, upon request.

    b.   Contractor must develop and submit for State approval complete, accurate, and timely Solution Documentation to support all End Users, and will update any and all Documentation to account for modifications, discrepancies, or errors through the life of the Contract and subsequent Contract amendments.

    c.   The Contractor's End User Documentation must provide detailed information about all Solution features and functionality, enabling the State to resolve common questions and issues prior to initiating formal support requests to the Contractor.

13.   Troubleshooting and Operational Support Services.

    a.   Contractor staff who have intimate knowledge of ORIA's Solution will provide on-going troubleshooting and support to End Users to correct or resolve Solution interface and interoperability problems, as needed and/or requested.

    b.   Contractor staff will be available for support in the event that the Solution is not working properly and if questions arise throughout the process from installation to ongoing support after implementation.

    c.   The Contractor and ORIA will establish a communication protocol and policy and procedures for ongoing troubleshooting and operational Solution support.

    d.   Technical support may be provided through conference calls, webinars, on-site meetings, or other means as agreed upon.

14.   IT Policies, Standards and Procedures. Contractor shall adhere to DSHS Security Policies and Standards. Contractor shall adhere to Washington State Office of Cyber Security (OCS) policies and standards, including Security Design Review, and application security requirements included in the Office of Chief Information Officer (OCIO) Standard 141.10. Contractor shall adhere to any applicable federal compliance regulations, policies, and standards applicable, including IRS Pub. 1075, to the programs which will be supported by the Solution. Contractor shall ensure and demonstrate that the Solution is in compliance with state OCIO and federal standards. It shall also integrate with State approved Authentication and Authorization systems. If the Solution does not pass the Security Design review, the Contract will be terminated for convenience by the State**.**

15.   Hosting. The proposed Solution will be deployed in the Contractor's proposed platform and will use the Contractor's proposed interface. DSHS requires hosting Services for both application and data storage that meets both DSHS and state requirements and policies. The Contractor will:

    a.   Provide a host environment and all services within the continental United States.

    b.   Ensure that data is stored, maintained and accessed solely within the continental United States.

Off-shore data warehousing and access is not allowed.

c. Ensure no data is shared with a third party without a valid data sharing agreement with the Agency.

d. Secure all instances of servers and limits access to authorized individuals.

e. Performs data and security management activities in compliance with the State Security standard as well as the standards and requirements defined in Section 5.15 of the DSHS Information Security Standards Manual (ISSM), which is incorporated by reference in Exhibit A.

f. Provide a cloud environment for ORIA.

g. Provide activities (or validated activities) related to installation, configuration, and maintenance of environments.

h. Provide Documentation of server instances.

i. Setup and Manage the Operating System environment, in accordance with the DSHS requirements.

j. Perform (or validate) all operating system maintenance and updates.

k. Train ORIA in system administration and environment if requested.

l. Monitor system performance and address issues.

m. Plan, implement and manage capacity changes.

n. Ensure service level standards are met.

16. **Subscription, Licensing, User Type and Capacity.**

a. The Contractor shall provide the necessary subscription(s) and license(s) required for ORIA and authorized Service Provider Users to access and utilize the ORIA Solution post-launch.

b. Contractor must be able to meet the minimum expected number of concurrent Users.

End User Type	Access Type	Estimated # of Licenses *[NOTE TO BIDDERS: May change at time of contract negotiations]*
ORIA Staff	Full	25
Service Provider Staff	Restricted Access	2460

17. **Minimum System Business Needs.** The Solution must meet the following business needs:

a. **General Business Needs.**

(1) The Contractor shall provide a platform using the Solution's interface for all existing ORIA programs.

(2) The Solution's access shall be via a web portal for contracted service providers and other users.

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It shall provide interface/online access to Solution users.

(3) All necessary fields needed for case management shall be available for web portal data entry.

(4) Plans, documentation of goals and services shall be able to be transferred to and from the Solution users and clients in electronic and printed form.

(5) The Solution shall:

    (a) Have the capability to be configured and customized in the future to include modifications to programs or additional programs/services as needs arise.

    (b) Include dashboards, which vary between ORIA and contracted service providers based on registered profiles.

    (c) Have the ability to search or lookup information efficiently with basic search capabilities based on various key words and data previously entered.

    (d) Allow multiple users to concurrently access and use the Solution (data entry, uploads, etc.).

    (e) Include electronic workflows and tracks approvals needed for each workflow.

    (f) Link individuals within a family or household. Individuals within the household shall have unique identifiers, and shall be linked to a household identifier.

    (g) Provide ORIA staff the ability to perform basic database formatting to reflect new or changing data element requirements, such as to add, update or delete new data fields, drop down lists, and other.

b. **Data Management Business Needs.**

(1) The Solution shall:

    (a) Allow contracted service providers to enter client and service information, complete forms, upload documents, and view caseloads and case management data.

    (b) Track any data entered or modified into the web portal.

    (c) Have the ability to enter comments and case notes as needed that can be accessed, displayed and tracked historically.

    (d) Provide the ability to save work in progress and continue it at a later date and time.

    (e) Allow users to make edits and modifications to data to minimize or fix errors and duplications.

    (f) Capture and track general intake and assessment information, client service activity from intake to completion, such as family self-sufficiency plans and budget plans, and track historical changes and progress made for client and household.

    (g) Allow for reviews, updates and tracking for each client including service history data across multiple programs and providers.

(h) Provide the ability to manage client contact information.

(i) Include the ability to input specific ORIA Program client information, such as on verifying and documenting the client's eligibility determination.

(j) Restrict the creation of duplicate records for the same client individual and/or household and allow for correcting/merging duplicative records, if needed.

(k) Collect and maintain case comments and tracks referrals related to all providers and services inside and outside of ORIA.

(l) Capture a contracted service provider's caseload and service history across all its contracted ORIA programs.

(m) Collect and securely maintain data, including client private data and personal identifying information, within a database.

(n) Incorporate all existing Excel migrated in, as selected by ORIA.

(o) Allow import and export of data in various formats.

(p) Capture and retain all ORIA programs' detailed data according to the retention period. It shall capture and retain historical high-level data, including demographics of enrollment in ORIA specific programs in perpetuity without any person identifying data.

(2) Through the Solution, users shall have the ability to document, modify and track the unique contractual requirements within each ORIA program.

(3) ORIA level users shall be able to process data or pull a report for reporting purposes as they arise.

(4) Contracted service providers shall have the ongoing option to upload an Excel file with required data, populating existing database fields.

c. **Reporting Business Needs.**

(1) The Solution shall:

(a) Gather and aggregate data to generate federal, state and program-level reports for any given timeframe. It shall generates standardized reports, such as performance outcome reports for contracted service providers, ORIA programs reviews and evaluations.

(b) Have the ability to generate reports regularly and create custom reports, such as on client outcomes and contracted service provider performance. It shall allow ad-hoc reports/queries to be saved for running future reports.

(c) Have programmatic reporting forms, such as intake and assessment forms, and the ability to modify and create new forms as needed.

(d) Generate reports with client and service information that contracted service providers can use when they submit invoices outside the system for payment.

(e) Allow all reports to be exported to Excel and to be printed both on an ad-hoc, on-demand

basis and according to a schedule.

(2) Users, including non-database experts, shall be able to look at the identified detailed records included in reports, correct data, if needed and rerun the aggregated totals (based on user permissions).

d. **Security Business Needs.**

(1) ORIA shall be able to limit the number of users per provider in the Solution. ORIA staff shall have the ability to approve and rescind system access, as needed.

(2) The Solution shall:

(a) Have user administration, role-based security and auditing (entry, update, view, print, delete) capabilities.

(b) Provide a unique login for each user and will use role-based security with various levels of permission.

(c) Provide ORIA the ability to approve and rescind user access, as needed.

(d) Provide a last-used date for each user, including contracted service providers.

(e) Allow the ability to assign permissions to users' access levels based on need.

(f) Provide ORIA an active directory on all users, including name, title, agency affiliate, contact information, and access start/end dates.

(g) Track system access by user and creates an audit trail. It shall track user login date and time, as well as data accessed, added, modified, and/or deleted.

(h) Allow private note availability.

18. **Deliverables. *[NOTE TO BIDDERS: Deliverables will be determined based on the Apparently Successful Bidder's proposal and via contract negotiations.]***

19. **Acceptance Process for the Contractor's Deliverables.**

a. Upon receipt of a Deliverable, DSHS will, with Contractor's assistance and within the period as specified in the Contract Change Order or work plan applicable to such Deliverable, review or perform testing on the Deliverable, as applicable, to determine whether the Deliverable conforms to its Acceptance standards. DSHS will provide Acceptance for a Deliverable if it has no Defects. If a Defect is found, however, DSHS will notify Contractor in an email or other document with a consolidated list of the Defects used as the grounds for DSHS' decision not to give Acceptance. Contractor shall correct Defects and resubmit a corrected Deliverable to DSHS and DSHS will review or perform Acceptance Tests on the Deliverable to verify whether the Defects have been corrected and that the Deliverable lacks Defects. DSHS shall either give its Acceptance or reject the Deliverable in writing, following such review or Acceptance Tests.

b. If Contractor is unable to correct all Defects within the applicable time period, DSHS may, at its option:

(1) Continue reviewing or performing Acceptance Tests on the Deliverable and require Contractor

to continue until such Defects are corrected or eliminated;

(2) Accept a non-conforming Deliverable at a reduced price that reasonably reflects the value of the non-conforming Deliverable;

(3) Request Contractor to provide, at its expense, a replacement Deliverable for further review or Acceptance Tests; or

(4) After completion of the process set forth in this Section and providing Notice of default to Contractor, terminate this Contract.

c. If DSHS does not notify Contractor of Deliverable defects by the expiration of the DSHS review period as described above, Contractor will provide written notice thereof to the DSHS Contract Manager, and if, within ten (10) Business Days thereafter, the DSHS Contract Manager has not provided Contractor a written notice on whether the Deliverable has been accepted or rejected, the Deliverable shall be deemed Accepted by DSHS.

20.   Change Request and Change Order Process.

a. A Change Request may be submitted by either party, to the other party, to modify, delete, or add, in whole or in part, the Deliverables or Services of this Contract, if made in accordance with and within the scope of this Contract. Such changes may include modification of system requirements, procedures, Documentation, resources, schedule, or any other part of the services.

b. The Change Order Process shall not be used for: changes affecting an increase or decrease in the maximum dollar value of the original Contract; a change to the Contract End Date of the original Contract; a substantial change beyond the original scope of the solicitation and this resulting Contract; or any changes to the terms and conditions of this Contract. Such changes shall be made via Contract amendment or through the procurement of a new contract, as appropriate.

c. **Issuance of Change Order.** Either party may issue a written Change Request using a Change Request form, to be determined, developed, and agreed upon by both parties. Request for a Change Order will, at a minimum, include:

(1) A statement as to why the change is needed;

(2) A description of the scope of the change; and

(3) The expected completion date.

d. Recipient Response. The party receiving the Change Request will respond to such request for a Change Order in writing within seven (7) business days of receipt, and such response will advise the requesting party of any cost and/or schedule impacts. Such response may be in electronic form. If a Change Request will reasonably result in an increase or decrease in fees, Contractor will advise DSHS of such increase or decrease in fees, including a breakdown of the number of staff hours by level of personnel needed to effect the contemplated change.

e. **Agreement**. Contractor and DSHS will negotiate in good faith and in a timely manner as to the fees of any Change Order. If the parties reach an agreement, the parties will produce and sign a final Change Order reflecting, at a minimum, the agreed-upon number of Contractor staff hours, timeline, schedule impacts and fees. Such final Change Order will modify the scope of the Services, and will be subject to the terms and conditions of this Contract.

f. **Disagreement**. If the parties are unable to reach an agreement within thirty (30) days of Contractor's response to a Change Order and the Change Request is necessary for DSHS to comply with law, DSHS will determine a revised fee structure and Contractor will proceed with the work according to a schedule agreed to by both parties, subject to Contractor's right to appeal DSHS's determination of the revised fee structure and schedule pursuant to Section 24 of the General Terms and Conditions.

21. **Solution Maintenance and Operations.** The Contractor will develop and submit a **Maintenance and Operations Plan** for ORIA's approval within 60 days after Contract execution that includes and addresses, at a minimum, the following:

   a. **Defect and Issue Identification**. The maintenance and operations plan should include Defect and issue identification that aligns with Exhibit C. The Contractor will negotiate a service level agreement for each severity level with ORIA and incorporate the agreement into the maintenance and operations plan.

   b. **Backup/Restore and Disaster Recovery Services.** The Solution must operate effectively without excessive interruption. The Contractor will establish comprehensive procedures to recover quickly and effectively following a Service disruption, including data backups frequency and a system recoverable plan, with no data loss, within less than 24 hours of an unexpected outage. The Contractor shall submit a disaster recovery plan that consists of the following phases:

      (1) Activation and notification phase to activate the plan and determine the extent of damage;

      (2) Recovery phase to restore operations;

      (3) Reconstitution phase to ensure that it is validated through testing and that normal operations are resumed; and

      (4) Complete testing of disaster plan and DSHS confirms that it meets DSHS requirements.

   c. **Data Management and Administration Services.** ORIA requires the Contractor to provide database management and administrative Services for its data and data storage environment. The Contractor will ensure that Services include data governance, data quality management, data migration, data extraction, data integration, and data security.

   d. **Monitoring and Performance Management Services.**

      (1) The Contractor will provide Solution performance monitoring and management to optimize and monitor the performance of the End User experience.

      (2) The Contractor will provide tools and services that monitor performance of the Solution to allow for flexibility, efficiency and scalability.

      (3) Contractor will advise ORIA on future scaling options and considerations as the Solution use increases.

   e. **Release Management of Upgrades, Versions, Enhancements and Fixes**.

      (1) The Contractor will coordinate the development, operations, and deployment of software while ensuring alignment with business priorities, policies, and procedures.

      (2) The Contractor will provide ORIA with continuous integration and delivery throughout the life of

the Contract. Contractor shall provide assurance that continuous improvement through feedback cycles is implemented during the enhancement, upgrades, and fixes.

(3) The Solution must be current with all business requirements, including State and Federal laws and regulations.

(4) The Solution must maintain compliance with all up-to-date DSHS reporting requirements and associated federal policies when upgrades, enhancements and fixes are developed and implemented.

(5) The Contractor will implement updates to the Solution that maintain compatibility with the ORIA implementation, including the configuration and interfaces. Releases will be planned and coordinated with DSHS.

f. **Specified Personnel for IT Professional Services**. Contractor shall use best efforts to ensure that personnel assigned to this Contract are available until the completion of the Contract. Any proposal by Contractor for changes, replacement, or substitution of personnel during the term of the Contract shall be submitted to ORIA in writing.

22. **Service Level Agreement.**

a. ORIA requests that the Contractor provide the most cost effective Service Level Agreement (SLA) that meets ORIA's requirements. DSHS has provided the following section to establish the minimum levels of Service. The Contractor is encouraged to improve upon these service levels. Once fully executed by the parties, the service level agreement shall be incorporated into this contract by reference as Exhibit ___.

b. Contractor shall:

(1) Provide a service level agreement with the following minimum requirements:

(a) The Solution is available 99.9% of the time.

(b) 98% of transactions are completed in 8 seconds or less.

(c) Solution recovery from a disaster recovery restoration is less than 24 hours.

(d) ORIA has a role in defining the severity of reported issues.

(e) Incident Response time to Priority One issues is less than 10 minutes.

(f) Incident Response time to Priority Two issues is less than 30 minutes.

(g) Resolution of Priority One issues is less than 24 hours (or an acceptable work around has been provided).

(h) Resolution of Priority Two issues is less than 72 hours (or an acceptable work around has been provided).

(i) Contractor's software maintenance must be performed overnight.

(j) Maintenance and scheduled downtime occurred outside of extended business hours (7:00 AM – 7:00 PM) Pacific Standard Time.

(2) Adhere to the terms of the service level agreement.

Should software updates/upgrades create conflicts or issues, the Contractor shall initiate an immediate roll back to the previous working condition so the software can function properly.

23. **Transition Services.**

a. If Contractor is unable to continue Service and support under the terms of this Contract due to termination, financial insolvency, sale to another organization that will not support this Contract, or any other reason that prevents system and contractual support to the Solution, the Contractor will provide to DSHS or its designee at no additional cost, all DSHS related data in a standard usable format.

b. Upon termination or expiration of the Agreement, Contractor must, for a period of time specified by the State (not to exceed 120 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Agreement to continue without interruption or adverse effect, and to facilitate the orderly transfer of the Services to the State or its designees. Such transition assistance may include but is not limited to:

(1) Continuing to perform the Services at the established rates;

(2) Taking all reasonable and necessary measures to transition performance of the work, including all applicable Services to the State or its designee;

(3) Taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return (in a format specified by the State) to the State all data stored in the Solution; and

(4) Preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

24. **Consideration**. *[NOTE TO BIDDERS: Consideration Section will be determined based on the Apparently Successful Bidder's pricing proposal and via contract negotiations.]*

a. Total consideration payable to the Contractor for satisfactory performance of the work under this Contract shall not exceed $_____ as follows:

(1)

b. The State reserves the right to purchase any additional services or products from the Contractor during the duration of the Contract.

Exhibits

Exhibit C - Incident Urgency Definitions

Urgency	Description
1 - Major	• Full work stoppage with no work around or a System, Application or Network Outage or potential to cause an outage • Instability exists in critical functions causing a significant impact to the users and/or customers for systems like: ACES systems, ESERV, Barcode, eJAS, Healthplanfinder (HPF), Health Benefit Exchange, (HBE) Washington Connection, Benefit Verification System (BVS), IVR, SharePoint, SOLQ, and TransServ etc. • Security vulnerability exists that can harm system performance and/or the ability to protect Category 3 or Category 4 data, , and/or Federal Tax Information (FTI) • Incorrect calculations affecting a significant population • Site Outages; Switch Outages; Phone systems down; UPS failures; Power Outages

Action Items
• Requires ticket response from assigned team within 10 minutes of ServiceNow Incident email notification generating. (This is required of all teams) • Usually requires an Incident Meeting discussion within 1 hour of discovery during core business hours Monday thru Friday between 8-5. Outside of core business hours, the established processes for escalation is followed. • Requires utilization of all available resources for an immediate (hot) fix or reduction to SEV2. • A Root Cause Analysis (RCA) and resolution details will be provided to HBE as available, dependent upon type of outage and the trigger organization.

Urgency	Description
2 - High	• Work stoppage with work around available or one exists but creates workload issues (i.e.: cleanup lists) • Security vulnerability exists that can affect the ability in protecting Category 1 or Category 2 data or Security or data exposures that do not result in immediate organizational risk • Data corruption exists such as examples where incorrect and/or missing data records are created or; • Inconsistent data – If a new instance of inconsistent data occurs not previously documented in a root cause PR. • High visibility issue in Legislature, Media, Courts, Government, etc. or liability issue exists such as QA/QC or payment errors • Missed timelines such as monthly issuance, 10 day notice, or client letters • Situation is critical to business needs, such as: • Previous P1 Incident (System outage/instability) de-escalated to P2 for additional analysis/resolution info. • Abends in nightly batch process. • Issues in subsystems or interface functionality that does not cause a work stoppage but impacts users ability to perform important aspects of their job such as: Widespread WCAP processing or SSPS connection issues or; Frequently recurring virtual machine or database crashing or; iLINX or MyDocs system stability issues or; Fax server or significant ECR, DMS, HIU, or BC tickle issues • A significant increase in occurrences for any existing incidents should be upgraded to P2.

Action Items
• Requires ticket response from assigned team within 30 minutes of ServiceNow generated email notification. (This is required of all teams) during core business hours Monday thru Friday 8-5. • Requires an Incident Meeting discussion no later than the next regularly scheduled Major Incident Meeting. Responsible team will notify Incident Manager if an earlier meeting is required. • Incidents to be fixed concurrently or by the assessed implementation date. • For system issues reported by HPF Prod Control, the Incident Managers provides updates, RCA and resolution when available.

Urgency	Description
3 - Medium	Situation is a minimal impact to business needs such as: • Limited Visibility • Cause has been identified and an approved workaround exists • Barcode issue of moderate impact – that does not does not cause work stoppage - but can impact the ability of a worker to complete needed case work. These would be lower priority confirmed system issues (internal or external) that do not meet the definition of a P1 or P2 incident. A workaround or available quick data fix should be available for these kinds of scenarios. Example: o A single report of a user receiving a JAM or related Barcode error on a specific case.

Action Items
• Fix to be scheduled for a future release. • These are not worked as a Hot Fix or concurrent deployments.

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Urgency	Description
4 - Low	• Situation is a low impact to business needs such as cosmetic issues.
	Action Items
	• Fix to be scheduled for a future release. • These are not worked as a Hot Fix or concurrent deployments.

Exhibits

Exhibit D - Incident & Problem Tickets: Impact/Urgency/Priority Definitions

This document provides the policy used in determining the appropriate priority of an incident or problem ticket. The priority dictates the order in which these records should be dealt with and is determined by a combination of **Impact** and **Urgency**.

    a. **Impact**: A measure of the effect an incident or problem has on business processes or the potential damage caused before it can be resolved.

    b. **Urgency**: A measure of how long the resolution can be delayed until an incident or problem has a significant business impact.

Priority		Impact			
		1 - Agency/External	2 - Region	3 - Office	4 - Individual
Urgency	1 - Major	1 - Major	2 - High	3 - Medium	4 - Low
	2 - High	2 - High	3 - Medium	4 - Low	4 - Low
	3 - Medium	3 - Medium	4 - Low	4 - Low	4 - Low
	4 - Low	4 - Low	4 - Low	4 - Low	4 - Low

Impact Key		Urgency Key	
1 – Agency / External	Agency wide or multiple divisions. External partner impact	1 - Major	Key service or multiple services are unavailable **causing a complete work stoppage.**
2 - Region	Regional or division wide impact	2 - High	**A service is unavailable impacting ability to work**. A temporary workaround is available.
3 – Office	Business units or office/workgroups	3 - Medium	Service degraded or not performing as designed; work impaired but **workaround exists**
4 – Individual	Individual impact only	4 - Low	Work not impaired, **little or low business impact.**

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Exhibit E - Federal Tax Information

1. **Performance**. In performance of this contract, the Contractor agrees to comply with and assume responsibility for compliance by officers or employees with the following requirements:

    a. All work will be done under the supervision of the contractor.

    b. The contractor and contractor's officers or employees to be authorized access to FTI must meet background check requirements defined in IRS Publication 1075. The contractor will maintain a list of officers or employees authorized access to FTI. Such list will be provided to the agency and, upon request, to the IRS.

    c. FTI in hardcopy or electronic format shall be used only for the purpose of carrying out the provisions of this contract. FTI in any format shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection or disclosure of FTI to anyone other than the contractor or the contractor's officers or employees authorized is prohibited.

    d. FTI will be accounted for upon receipt and properly stored before, during, and after processing. In addition, any related output and products require the same level of protection as required for the source material.

    e. The contractor will certify that FTI processed during the performance of this contract will be completely purged from all physical and electronic data storage with no output to be retained by the contractor at the time the work is completed. If immediate purging of physical and electronic data storage is not possible, the contractor will certify that any FTI in physical or electronic storage will remain safeguarded to prevent unauthorized disclosures.

    f. Any spoilage or any intermediate hard copy printout that may result during the processing of FTI will be given to the agency. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts and will provide the agency with a statement containing the date of destruction, description of material destroyed, and the destruction method.

    g. All computer systems receiving, processing, storing, or transmitting FTI must meet the requirements in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to FTI.

    h. No work involving FTI furnished under this contract will be subcontracted without the prior written approval of the IRS.

    i. Contractor will ensure that the terms of FTI safeguards described herein are included, without modification, in any approved subcontract for work involving FTI.

    j. To the extent the terms, provisions, duties, requirements, and obligations of this contract apply to performing services with FTI, the contractor shall assume toward the subcontractor all obligations, duties and responsibilities that the agency under this contract assumes toward the contractor, and the subcontractor shall assume toward the contractor all the same obligations, duties and responsibilities which the contractor assumes toward the agency under this contract.

    k. In addition to the subcontractor's obligations and duties under an approved subcontract, the terms and conditions of this contract apply to the subcontractor, and the subcontractor is bound and

Exhibits

obligated to the contractor hereunder by the same terms and conditions by which the contractor is bound and obligated to the agency under this contract.

l. For purposes of this contract, the term "contractor" includes any officer or employee of the contractor with access to or who uses FTI, and the term "subcontractor" includes any officer or employee of the subcontractor with access to or who uses FTI.

m. The agency will have the right to void the contract if the contractor fails to meet the terms of FTI safeguards described herein.

2. Criminal/Civil Sanctions.

a. Each officer or employee of a contractor to whom FTI is or may be disclosed shall be notified in writing that FTI disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any FTI for a purpose not authorized herein constitutes a felony punishable upon conviction by a fine of as much as $5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution.

b. Each officer or employee of a contractor to whom FTI is or may be accessible shall be notified in writing that FTI accessible to such officer or employee may be accessed only for a purpose and to the extent authorized herein, and that access/inspection of FTI without an official need-to-know for a purpose not authorized herein constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as $1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution.

c. Each officer or employee of a contractor to whom FTI is or may be disclosed shall be notified in writing that any such unauthorized access, inspection or disclosure of FTI may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of $1,000 for each unauthorized access, inspection, or disclosure, or the sum of actual damages sustained as a result of such unauthorized access, inspection, or disclosure, plus in the case of a willful unauthorized access, inspection, or disclosure or an unauthorized access/inspection or disclosure which is the result of gross negligence, punitive damages, plus the cost of the action. These penalties are prescribed by IRC sections 7213, 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

d. Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

e. Granting a contractor access to FTI must be preceded by certifying that each officer or employee understands the agency's security policy and procedures for safeguarding FTI. A contractor and each officer or employee must maintain their authorization to access FTI through annual recertification of their understanding of the agency's security policy and procedures for safeguarding FTI. The initial certification and recertifications must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, a contractor and each officer or employee must be advised of the provisions of IRC sections 7213, 7213A, and 7431 (see IRS 1075 Exhibit 4, Sanctions for Unauthorized Disclosure, and Exhibit 5, Civil Damages for

Unauthorized Disclosure). The training on the agency's security policy and procedures provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For the initial certification and the annual recertifications, the contractor and each officer or employee must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

3.   **Inspection.** The IRS and the Agency, with 24-hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. Based on the inspection, corrective actions may be required in cases where be noncompliant with FTI safeguard requirements

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Exhibit F - Federal Contract Provisions

The contractor must comply with the following provisions:

1. Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented by the Department of Labor Regulations (41 CFR Part 60): The Executive Order prohibits federal contractors and federally-assisted construction contractors and subcontractors who do over $10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

2. The Clean Air Act, Section 306:

   a. No Federal agency may enter into any contract with any person who is convicted of any offense under section 113(c) for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.

   b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).

   c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

   d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

   e. The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section. [42 U.S.C. 7606]

3. The Clean Water Act:

   a. No Federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this Act for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than 180 days after the enactment of this Act, cause to be issued an order:

    (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and

    (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

e. The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

f. (1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

g. (2) In paragraph (1), the term "commercial item" has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

4. The Anti-Lobbying Act: This Act prohibits the recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the applicant certifies that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Confess in connection with this federal grantor o cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. The undersigned shall require that the language of this certification be include in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

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5. Americans with Disabilities Act: This Act (28 CFR Part 35, Title II, Subtitle A) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.

6. Drug Free Workplace Statement: The Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:

    a. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the work place.

    b. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.

    c. Employees must notify their employer of any conviction of a criminal drug statue no later than five days after such conviction.

    d. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy of the Arkansas Department of Health WIC Program that abuse of this drug will also not be tolerated in the workplace.

    e. Contractors of federal agencies are required to certify that they will provide drug-free workplaces for their employees.

7. Debarment, suspension, and other responsibility matters: As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110.

    a. The applicant certifies that it and its principals:

        (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

        (2) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

        (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

        (4) Have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default.

    b. Where the applicant is unable to certify to any of the statements in this certification, he or she shall

Exhibits

attach an explanation to this application.

8.   The federal government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal government purposes, the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant or any rights of copyright to which a contractor purchases ownership.