

CONTRACT K6690

BETWEEN

WASHINGTON STATE EMPLOYMENT SECURITY DEPARTMENT

AND

DELOITTE & TOUCHE LLP

1. INTRODUCTION

This Contract is made and entered into by and between the Washington State Employment Security Department, hereinafter called "ESD", located at 212 Maple Park Ave SE, Olympia, WA 98507 and Deloitte & Touche LLP, hereinafter called "Contractor", located at 925 Fourth Avenue, Suite 3300, Seattle, WA 98104.

2. PURPOSE

It is the purpose of this Contract perform a security assessment of the ESD's Unemployment Insurance (UI) program to understand the security posture of the UI system ("the in-scope system") and related controls in order to identify security vulnerabilities in the systems and supporting control processes, identify misalignment with leading practice security standards (e.g., NIST 800-53), identify actionable steps to remediate control vulnerabilities. Additional related services, such as implementing remediation of vulnerabilities, may be procured by a change order if requested by ESD.

3. CONTRACT MANAGEMENT

ESD's Contract Manager shall monitor the performance and compliance of this Contract. ESD's Contract Manager shall be responsible for the review and acceptance of the Contractor's performance, deliverables, invoices, expenses, and reports from the Contractor. The Contract Manager will be the main contact for any questions about the contract.

ESD Contract Manager responsible for management of this Contract is:

Name: Rebekah O'Hara
Title: Chief Data Privacy Officer
Phone Number: 360-890-3755
E-mail: reohara@esd.wa.gov

Contractor staff member responsible for management of this Contract is:

Name: Eric Bowman
Title: Principal
Phone Number: 571-236-2217
E-mail: ebowman@deloitte.com

4. DEFINITIONS

As used throughout this Contract, the following terms shall have the meanings set forth below.

- 4.1. "CONFIDENTIAL INFORMATION" means information exempt from disclosure to the public or other unauthorized persons under state or federal statutes; or information related to ESD customer data or technical designs unless otherwise identified as non-confidential at the time of disclosure; or any other information which ESD has identified to Contractor in writing as confidential at the time of disclosure or within three (3) days after disclosure; or information that would ordinarily be considered confidential or proprietary in the light of the circumstances surrounding disclosure. "CONFIDENTIAL INFORMATION" may also be referred to as "Protected Information". "CONFIDENTIAL UI DATA" defined below is a sub-set of "CONFIDENTIAL INFORMATION". CONFIDENTIAL INFORMATION does not include information that (A) is or becomes publicly available other than as the result of a disclosure in breach hereof, (B) becomes available to the receiving party on a non-confidential basis from a source that the receiving party believes is not prohibited from disclosing such information to the receiving party, (C) is already known by the receiving party without any obligation of confidentiality with respect thereto, or (D) is developed by the receiving party independently of any disclosures made to the receiving party hereunder.
- 4.2. "CONFIDENTIAL UI DATA" means information in the records of ESD collected from employers and individuals for the administration of the state unemployment insurance program as set forth in the federal law (20 CFR 603) and state statutes (chapters 50.13 and 50.38 RCW) received from, or on behalf of, ESD by Contractor in its performance of the services under the Contract.
- 4.3. "CONTRACTOR" means Deloitte & Touche LLP, the agency, firm, organization, individual or other entity performing services and/or providing goods under this Contract.
- 4.4. "FORCE MAJEURE" means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure shall include acts of God, war, riots, strikes, fire, floods, epidemics, or other similar occurrences.
- 4.5. "INFORMATION TECHNOLOGY RESOURCES" means ESD computing and communications resources or equipment, ESD's electronic messaging systems and internet access.
- 4.6. "MATERIALS" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions.
- 4.7. "PARTIES" mean Deloitte & Touche LLP and the Employment Security Department.
- 4.8. "SUBCONTRACTOR" means agency, firm, organization, individual or other entity other than the prime one, not in the employment of the CONTRACTOR, who is performing all or part of those services or providing all or part of the goods under this prime Contract or a subcontract entered into in connection with this prime Contract. The terms "SUBCONTRACTOR" and "SUBCONTRACTORS" means SUBCONTRACTOR(s) in any tier.

5. STATEMENT OF WORK

Except as otherwise set forth in this Contract, including Exhibit A, the Contractor shall furnish the necessary personnel, labor, and services, and otherwise do all things necessary for the performance of the work set forth in the Statement of Work attached and incorporated as Exhibit A.

6. TERMS AND CONDITIONS

All rights and obligations of the parties to this Contract shall be subject to and governed by the terms contained in this Contract.

7. PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Contract shall start on the date of execution and end on November 18, 2020 unless terminated sooner as provided herein.

8. REPORTING

Please see reporting requirements in Exhibit A, Statement of Work.

9. COMPENSATION

9.1. The parties have agreed that the total compensation including expenses payable to the Contractor, for accomplishing the work set forth in Exhibit A, Statement of Work, in accordance with the terms therein, will be a fixed fee of \$300,000.

9.2. The Contractor will not be reimbursed for travel to Olympia/Lacey, WA or for required events and meetings in and around the Olympia/Lacey area (within an eight-mile radius of 640 Woodland Square Loop SE, Lacey, WA 98503). For preauthorized travel outside the Olympia/Lacey area, ESD will reimburse Contractor at the rates published by the Washington State Office of Financial Management.

10. BILLING PROCEDURE

10.1. The Contractor shall submit one invoice to ESD for the fixed price amount of \$300,000 (three hundred thousand dollars) upon acceptance of the two project deliverables. No prepayment of hours is allowed, and Contractor may not invoice for any hours worked on deliverables that have not been completed and/or accepted by ESD.

10.2. Final invoice must be received within thirty (30) days after contract end date. Failure by the Contractor to submit the invoice by this date may result in non-payment. ESD shall pay the Contractor for completed and approved work within thirty (30) days of receipt of invoice.

10.3. Invoice will clearly indicate that it is, "FOR SERVICES RENDERED IN PERFORMANCE UNDER ESD CONTRACT NUMBER K6690 and include:

- Contractor name, address, phone number, and Federal Tax Identification Number;
- Description of services and associated deliverables;
- Description of each line item as either goods or services;
- Net invoice price for each deliverable;
- Applicable taxes;

- Total invoice price; and
- Payment terms including any available prompt payment discounts.

10.3.1. The invoice document shall be submitted to:

Employment Security Department
Attention: Contractor Payments
PO Box 9046
Olympia, WA 98507

Or one electronic copy of invoice document to: VendorPayments@esd.wa.gov

11. ACCEPTANCE

- 11.1. It is understood and agreed by and between ESD and the Contractor that the Contractor's payment is conditioned upon performance of the Services in accordance with the requirements of herein, and acceptance by ESD of the Deliverables in accordance with Exhibit A, Statement of Work.
- 11.2. ESD reserves the right to withhold payment of any deliverable contingent upon acceptance of the deliverable by ESD. If defects preventing acceptance of a deliverable are present, ESD shall immediately notify the Contractor in writing of the nature of the defects, within the applicable review period. The Contractor will take action within fifteen days to remedy defects as to permit acceptance of the subject deliverable. Notwithstanding the other provisions of this Contract, ESD shall not unreasonably withhold acceptance of a deliverable nor reimbursement of the Contractor.

12. INFRINGEMENT

ESD shall receive prompt written notice of each notice or claim of infringement received by the Contractor with respect to any data delivered under this Contract. ESD shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

13. INFORMATION TECHNOLOGY RESOURCES

- 13.1. Contractor is required to conserve and protect state resources in its control for the benefit of the public interest. This requirement is necessary to maintain public trust, conserve public resources and protect the integrity of state information resources and systems.
- 13.2. Contractor may only use ESD-provided state-owned information technology resources with expressed permission from ESD Contract Manager.
- 13.3. If the performance of this Contract requires Contractor to use ESD-provided state-owned information technology resources Contractor may only use such resources to conduct business that is necessary for the performance of this Contract and within the scope of the Contract. Furthermore, Contractor is prohibited from using the resources for any unlawful purpose or any personal use.
- 13.4. Nothing contained in this Section shall be construed to create a right of privacy in any content transmitted via ESD's electronic messaging systems. ESD may monitor and log all activity on ESD computing and communication resources, including, but not limited,

to internet access. ESD monitoring and logging may be used by ESD for any purpose.

- 13.5. USB, external and internal peripherals, and similar devices connected to agency equipment are subject to all applicable federal laws, state laws, state polices, agency policies, executive orders, and this Contract.

14. INSURANCE

- 14.1. Contractor shall, during the term of this Contract, maintain in full force and effect, the insurance described in this Section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed or otherwise legally permitted to conduct business in the State of Washington. In the event of cancellation, non-renewal, revocation, or other termination of any insurance coverage required by this Contract, Contractor shall provide written notice of such to ESD within five business days of Contractor's receipt of such notice unless Contractor obtains replacement coverage meeting the terms and conditions hereunder without lapse. Failure to buy and maintain the required insurance may, at ESD's sole option, result in this Contract's termination.
- 14.2. All insurance provided by Contractor shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State and shall include a severability of interests (cross-liability) provision.
- 14.3. Upon ESD's written/emailed request Contractor shall furnish to ESD copies of industry standard Acord certificates, naming ESD as an additional insured on the commercial general liability and business automobile liability policies insurance within thirty (30) days.

14.4. Minimum Acceptable Limits

The minimum acceptable limits must be as indicated below, with Contractor responsible for any deductible.

- 14.4.1. Commercial General Liability covering the risks of bodily injury (including death), property damage and personal and advertising injury, including coverage for contractual liability pursuant to policy terms and conditions, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;
- 14.4.2. Business Automobile Liability (owned, hired, or non-owned) covering the risks of bodily injury (including death) and property damage, with a combined single limit of not less than \$1 million per accident;
- 14.4.3. Crime Coverage of not less than \$1 million single limit per loss which shall at a minimum cover occurrence falling in the following categories: Computer Fraud; Forgery; Money and Securities; and Employee Dishonesty.

14.5. Industrial Insurance Coverage

- 14.5.1. Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless ESD and the State and its agencies, officials, agents or employees from claims by Contractor's employees or agents.

14.5.2. The Contractor must 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.

14.5.3. The Agency may:

14.5.3.1. Deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by Agency under this Contract; and

14.5.3.2. Transmit the deducted amount to the Department of Labor and Industries (L&I), Division of Insurance Services.

14.5.4. This provision does not waive any of L&I's right to collect from the Contractor.

15. PUBLIC RECORDS REQUESTS

15.1. ESD is a public agency and is subject to the provisions of the state of Washington Public Records Act, including RCW 42.56. This document and all attachments constitute a public state agency contract; the entirety of this Contract, attachments, supporting documents, and communications are subject to public disclosure under RCW 42.56 regardless of any claim of confidentiality. ESD will notify the Contractor if a request is made for documents designated as confidential by the Contractor. ESD will allow the Contractor the opportunity to raise and support potential exemptions under the law from public disclosure, and, if necessary, to contest the potential release of the affected records or information. The Contractor shall not make any claim against ESD if ESD makes available to the public any document or information ESD receives from the Contractor which is required to be made public by ESD pursuant to the public disclosure laws or a court order.

16. SUBCONTRACTS

16.1. The Contractor shall not subcontract work contemplated under this Contract and/or use an outside consultant without obtaining the prior written approval of ESD. ESD hereby consents to Contractor subcontracting any portion of the services to its affiliates inside the United States.

16.2. Contractor acknowledges that such approval for any Subcontractor does not reduce or release the Contractor of its liability for any breach by the Contractor or Subcontractor duties under this Contract.

16.3. For any proposed Subcontractor, the Contractor shall be responsible for Subcontractor's compliance with the applicable terms and conditions of this Contract, including but not limited to ensuring that the Subcontractor follows ESD's reporting formats and procedures as specified by ESD.

16.4. The Contractor shall remain responsible and liable to ESD for Subcontractor's performance to the same extent that Contractor would be responsible and liable to ESD under this Contract had Contractor performed such services.

- 16.5. Should Contractor file for or has filed against its bankruptcy petition and the petition is not dismissed within sixty (60) days after the filing date or Contractor becomes insolvent, or this Contract is terminated for cause, ESD will have the right to enter into direct agreements with any Subcontractor.

17. TERMINATION, SUSPENSION, AND REMEDIES

17.1. Termination or Suspension for Cause

17.1.1. In the event Contractor has failed to comply with the conditions of this Contract, ESD has the right to suspend or terminate this Contract. Prior to any termination under this Section, ESD shall notify the Contractor in writing of the need to take corrective action, prior to termination, and allow the Contractor at least ten (10) calendar days to cure, except if the breach is not curable or in the event that such breach is the result of intentional misconduct.

17.1.2. In the event of termination or suspension, the Contractor may, subject to the LIMITATIONS OF LIABILITY Section be liable for direct damages as authorized by law including, but not limited to, any cost difference between the original Contract and the replacement costs paid to an alternative service provider to cover the services terminated.

17.1.3. ESD reserves the right to withhold payment for the affected services during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by ESD to terminate this Contract.

17.1.4. A termination shall be deemed to be a "Termination for Convenience" if the investigation determines that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of ESD provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

17.2. Termination for Funding Reasons

ESD may unilaterally terminate this Contract in the event that funding from federal, state or other sources becomes no longer available to ESD or is not allocated for the purpose of meeting ESD's obligation hereunder. Such action is effective upon the date set forth in written/email notification to the Contractor; ESD will give such notice as much in advance as is practicable under the circumstances.

17.3. Termination or Suspension for Convenience

Except as otherwise provided in this Contract, ESD may, by ten (10) days' written notice, beginning on the second day after mailing, suspend or terminate this Contract, in whole or in part. If this Contract is so suspended or terminated, ESD shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of suspension or termination. If this Contract is suspended, the Schedule shall be delayed for a period of time equal to the period of such suspension. ESD may, by ten (10) days' written notice, beginning on the second day after mailing, lift the suspension of the Contract, in whole or in part, at which time the Schedule and the parties' right and obligations shall resume to the extent that the suspension is lifted.

17.4. Termination for Withdrawal of Authority

In the event that ESD's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, ESD may terminate this Contract by seven (7) calendar days or other appropriate time period by written notice to Contractor. No penalty shall accrue to ESD in the event this Section is exercised. This Section shall not be construed to permit ESD to terminate this Contract in order to acquire similar Services from a third party.

18. TERMINATION PROCEDURE

- 18.1. Upon termination of this Contract, ESD, in addition to any other rights provided in this Contract, may require the Contractor to deliver to ESD any property specifically produced or acquired for the performance of such part of this Contract as has been terminated that has been paid for. The provisions of the TREATMENT OF ASSETS and INTELLECTUAL PROPERTY Sections will apply in such property transfer.
- 18.2. ESD shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by ESD and an fair and equitable pro-rata amount agreed upon by the Contractor and ESD for (1) completed work and service(s) for which no separate price is stated; (2) partially completed work and services; (3) other property or services which are accepted by ESD; and (4) the protection and preservation of property, unless the termination is for default, in which case ESD shall determine the extent of liability of ESD. Failure to agree with such determination shall be a dispute within the meaning of DISPUTES Section, of this Contract. ESD may withhold from any amounts due to the Contractor such sum as is finally judicially awarded for loss or liability associated with Contractor's breach.
- 18.3. The rights and remedies of ESD provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- 18.4. After receipt of a notice of termination and except as otherwise directed by ESD, the Contractor shall:
 - 18.5.1. Stop work under this Contract on the effect date of termination, and to the extent specified, in the notice;
 - 18.5.2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of work under this Contract as is not terminated;
 - 18.5.3. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts;
 - 18.5.4. Complete performance of such part of the work as shall not have been terminated by ESD; and
 - 18.5.5. Take such action as may be necessary, or as ESD may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which ESD has or may acquire an interest.

19. TREATMENT OF ASSETS

- 19.1. Title to all property furnished by ESD shall remain in ESD. Title to all property purchased by the Contractor the cost of which the Contractor has been reimbursed as a direct item of cost under this Contract, shall pass to and vest in ESD upon delivery of such property by the Contractor. The title shall only pass to the Contractor if ESD specifically agrees to grant title in this Contract

for asset(s) purchased.

- 19.2. Any property of ESD furnished to the Contractor shall, unless otherwise provided herein, or approved by the Contract Manager in writing, be used only for the performance of this Contract.
- 19.3. Property will be returned to ESD in like condition to that in which it was furnished to the Contractor, normal wear and tear excepted. The Contractor shall be responsible for any loss or damage to property of ESD in the possession of the Contractor which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain said property in accordance with sound management practices.
- 19.4. If any ESD property is damaged or destroyed, the Contractor must notify ESD and shall take all reasonable steps to protect that property from further damage.
- 19.5. The Contractor must surrender to ESD all property of ESD upon completion, termination or cancellation of this Contract.

19.6. All references to "property" in this Section mean tangible personal property.

20. INTELLECTUAL PROPERTY

- 20.1. For purposes of this Agreement (i) "IP" means works of authorship, materials, information, and other intellectual property; (ii) "Contractor IP" means all IP created prior to or independently of the performance of the Services, or created by Contractor or its subcontractors as a tool for their use in performing the Services, plus any modifications or enhancements thereto and derivative works based thereon; and (iii) "Deliverables" means all IP that Contractor or its subcontractors create for delivery to Purchaser as a result of the Services. Upon payment to Contractor for the applicable Deliverable, and subject to the terms and conditions contained herein, Contractor hereby (i) assigns to Purchaser all rights in and to the Deliverables, except to the extent they include any Contractor IP; and (ii) grants to Purchaser the right to use, for Purchaser's internal business purposes, any Contractor IP included in the Deliverables in connection with its use of the Deliverables. Except for the foregoing license grant, Contractor or its licensors retain all rights in and to all Contractor IP.

21. USE AND DISCLOSURE OF INFORMATION

- 21.1. The Contractor shall use any private and confidential information provided under this Contract solely for the purpose for which the information was disclosed. The Contractor shall not misuse any private and confidential information under this Contract. The Contractor shall not disclose any private and confidential information unless the disclosure is authorized by law. The misuse or unauthorized release of private and confidential information shall subject Contractor, its employees or agents to a civil penalty of \$5,000 and other applicable sanctions under state and federal law (RCW 50.13.060[13] and 50.13.080[3]).

22. GENERAL TERMS

22.1. RECORDS and AUDITS

22.1.1. Record Retention

Contractor shall retain all books, records, documents and other material which reflect all costs of any nature expended in the performance of this Contract that are invoiced to ESD for a period of six years from termination of the Contract. Records shall be

retained beyond the above referenced retention periods if litigation or audit is begun prior to the end of the period referenced above, or if a claim is instituted prior to the end of the period referenced above involving the Contract covered by the records. In these instances, the records will be retained until the litigation, claim or audit has been finally resolved.

22.1.2. Access To Records and Facilities / Audits

ESD and its designees shall have full access to and the right to examine and copy any or all books, records, papers, documents and other material regardless of form or type which are pertinent to the performance of this Contract, or reflect all costs of any nature expended in the performance of this Contract that are invoiced to ESD. The Contractor must maintain its records and accounts in such a way as to facilitate the audit and examination and assure that Subcontractors also maintain records that are auditable. Access must be available at all reasonable times not limited to the required retention period but as long as records are retained, and at no additional cost to ESD.

22.2. ADVANCE PAYMENTS PROHIBITED

No payment in advance or in anticipation of services or supplies to be provided by this Contract shall be made by ESD. In cost reimbursement contracts, the Contractor shall be entitled only to reimbursement for expenses incurred during the contract period for work accomplished as provided elsewhere in this Contract. In fixed unit price contracts, the Contractor shall be entitled only to payment for work accomplished during the contract period and in accordance with the terms of this Contract.

22.3. ASSIGNMENT

The work to be provided under this Contract, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

22.4. ASSURANCES

22.4.1 ESD and the Contractor agree that all activity pursuant to this Contract will be in accordance with all applicable current or future federal, state or local laws, rules and regulations, subject to the parties executing an amendment or Change Order to address any impacts resulting from changes in any such laws, rules, and regulations after the effective date of this Contract.

22.5. ATTORNEY FEES AND COSTS

If any litigation is brought to enforce this Contract or any litigation arises out of any contract term, clause or provision, each party shall be responsible for its own expenses, costs and attorney fees.

22.6. CHANGES AND AMENDMENTS

22.6.1. ESD or Contractor may agree to changes to the terms of this Contract. Such changes, including any increase or decrease in the amount of payment or reimbursement, which are mutually agreed upon by the Parties, will only be valid when in writing and must be signed by the authorized representatives of the

parties.

- 22.6.2. If the changes requested by either party substantially changes the scope of work of the original contract or substantially increases the value of the original contract ESD may be required to purchase the additional goods and/or services through a new competitive solicitation (RCW 39.26.120[2]). However, in such circumstances, no new competitive solicitation shall be required if an exception to competitive solicitation applies (RCW 39.26.125).

22.7. CONFLICT OF INTEREST

- 22.7.1. Notwithstanding any determination by the Executive Ethics Board or other tribunal, ESD may, in its sole discretion, by written notice to the Contractor, terminate this Contract if it is found after due notice and examination by ESD that there is a violation of the Ethics in Public Service Act, RCW 42.52, or any similar statute involving the Contractor in the procurement of, or performance under, this Contract.
- 22.7.2. In the event this Contract is terminated as provided above, ESD shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of this Contract by the Contractor. The rights and remedies of ESD provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which ESD makes any determination under this clause may be reviewed as provided in the DISPUTES clause of this Contract.

22.8. COSTS

- 22.8.1. Disallowed Costs

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of itsSubcontractors.

- 22.8.2. Duplication of Billed Costs

The Contractor shall not bill ESD for costs if the Contractor is being paid by another source for those same costs.

22.9. COVENANT AGAINST CONTINGENT FEES

- 22.9.1. The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. This does not include bona fide employees or bona fide established agents maintained by the Contractor for the purpose of securing business that neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds out as being able to obtain any government contract or contracts through improper influence.
- 22.9.2. ESD shall have the right, in the event of breach of this clause by the Contractor, to annul this Contract without liability or, by its sole discretion, to deduct from the contract price or consideration or otherwise recover by other means the full amount of such commission, percentage, brokerage or contingent fees. In no event shall ESD be liable for any commission, percentage, brokerage, or contingent fees.

22.10. DEBARMENT AND SUSPENSION

The Contractor has provided, in Exhibit C to this Agreement, its certification that it is in compliance with, and shall not contract with, individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549, and "Debarment and Suspension, codified at 29 CFR part 98.

22.11. DISPUTES

The contract managers shall use their best efforts to resolve disputes between the Parties at the lowest administrative level. If these individuals are unable to resolve a dispute, the responsible project directors of each Party shall review the matter and attempt to resolve it. If they are unable to resolve the dispute, the matter shall be reviewed by executive level management of each Party or designee. The Parties agree to exhaust each of these procedural steps before seeking to resolve disputes in a court of law or any other forum.

22.12. FORCE MAJEURE

22.12.1. Except for payment of sums due, neither party shall be liable to the other or deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. If either party is delayed by force majeure, said party shall provide written notification to the other party. The notification shall provide evidence of the force majeure and commercially reasonable efforts to mitigate the effects to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion shall be extended by contract modification for the period of delay or inability to perform due to such occurrences.

22.12.2. Despite Force Majeure ESD maintains its rights under this Contract to Terminate for Convenience.

22.13. INDEMNIFICATION

22.13.1. **General.** Contractor shall defend, indemnify, and save ESD harmless from and against any claims, including reasonable attorneys' fees resulting from such claims, by third parties for any or all bodily injuries to persons or damage to real or tangible personal property to the extent caused by intentional, willful or negligent acts or omissions of Contractor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents while engaged in performing the Services or otherwise engaged in or resulting from activities related to performance of this Contract.

22.13.2. **Infringement Indemnification.** Contractor shall defend, indemnify, and save ESD harmless from and against any claims against ESD that any Deliverable supplied hereunder, or ESD's use of the Deliverable 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.. 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 ESD. If such claim has occurred, or in Contractor's opinion is likely to occur, ESD agrees to permit Contractor, at its option and expense, either to procure for ESD the right to continue using the Deliverable or to replace or modify the same so that they become non-infringing and functionally equivalent. If use of the Deliverable is enjoined by a court and Contractor determines that none of these alternatives is reasonably available, Contractor, at its risk and expense, will take back the Deliverable and provide ESD a refund. In the case of Deliverable, in addition to any other remedies available to ESD under this Contract or at law or equity, Contractor shall refund to ESD the entire amount ESD paid to Contractor for Contractor's provision of the Deliverable. Contractor has no liability for any claim of infringement arising solely from

- (i) Contractor's compliance with any designs, written specifications or written instructions of ESD;
- (ii) modification of the Deliverable by ESD or its contractors without the prior knowledge and approval of Contractor; or
- (iii) use of the Deliverable in a manner not contemplated by this Contract; but only if the claim for infringement would not have arisen absent any of these specified actions.

22.14. INDEPENDENT CAPACITY OF CONTRACTOR

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and their employees or agents performing under this Contract are not employees or agents of ESD. The Contractor will not hold himself/herself out as, nor claim to be an officer or employee of, ESD or of the State of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such employee under law.

22.15. JURISDICTION 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 the Superior Court for Thurston County. All parties agree to the exclusive jurisdiction of such court and waive any right to challenge jurisdiction or venue.

22.16. LIMITATION OF LIABILITY

22.16.1. The parties agree that neither Contractor nor ESD shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except any 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 the party's applicable indemnification obligation as set forth elsewhere in this Contract. Contractor, its subsidiaries and subcontractors, and their respective personnel shall not be liable to the other for any claims, liabilities, or expenses relating to this Contract ("Claims") for an aggregate amount in excess of \$1,000,000.

22.16.2. Neither party shall be liable to the other party unless damage is proximately caused by such party's respective fault or negligence. Neither the Contractor nor

ESD shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of the party. Such causes may include, but are not restricted to, acts of God or acts of a governmental body other than the ESD acting in either its sovereign or contractual capacity.

22.17. SEVERABILITY

The provisions of this Contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Contract.

22.18. SIGNATURE AUTHORITY

22.18.1. This Contract, any alteration, amendment, modification, or waiver of any clause or condition of is not effective or binding unless made in writing and signed by the Contractor and the Commissioner of ESD or any ESD authorized representative that has been given delegated authority prior to signing.

22.18.2. Contractor represents and warrants that the person executing this Contract on its behalf has the full right and authority to fully commit and bind Contractor.

22.19. SITE SECURITY

While on ESD premises, Contractor, its agents, employees, or Subcontractors must conform in all respects with physical, fire, or other security policies or regulations.

22.20. USE OF NAME PROHIBITED

22.21.1. The Contractor shall not in any way contract on behalf of or in the name of ESD. Nor shall the Contractor release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning this project without obtaining the prior written approval of ESD.

22.21.2. The parties have mutually agreed to the terms and conditions contained herein, including attached exhibits.

22.21. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing signed by an authorized representative of ESD.

23. ORDER OF PRECEDENCE

In the event of an inconsistency in this Contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable Federal and State Statutes and Regulations;
2. Terms and Conditions as contained in this basic contract instrument;
3. The Statement of Work, Exhibit A; and
4. Any other provisions of this Contract whether incorporated by reference or otherwise.

24. INCORPORATED DOCUMENTS

Each of the documents listed below are incorporated into this Contract:

- Exhibit A Statement of Work
- Exhibit B Certification Regarding Debarment and Suspension
- Exhibit C Data Security Requirements
- Exhibit D Non-Disclosure Agreement

25. ELECTRONIC SIGNATURES, COUNTERPARTS, AND DELIVERY

The parties agree that this Contract may be executed in multiple counterparts, each of which is deemed an original and all of which constitute only one agreement; and that electronic signature, or e-signature, of this Contract shall be the same as execution of an original ink signature; and that e-mail, electronic, or facsimile delivery of a signed copy of this Contract shall be the same as delivery of an original.

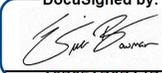
26. THE ENTIRE AGREEMENT

This Contract sets forth in full the entire agreement of the parties in relation to the subject matter of this Contract. It supersedes any other agreement, representation, or understandings, verbal or otherwise, relating to the subject matter of this Contract.

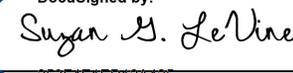
IN WITNESS WHEREOF, the parties have executed this Contract.

Deloitte & Touche LLP

Washington State
Employment Security Department

DocuSigned by:

 5/21/2020

 Signature Date

DocuSigned by:

 5/21/2020

 Signature Date

Eric Bowman
Name

Suzi G. LeVine
Name

Principal, Cyber Risk and Financial Advisory
Title

Commissioner, Employment Security Department
Title/Division



Voluntary reporting:

OMWBE Certification Number or "Self-certified": # _____

- Minority Owned Business
- Woman Owned Business
- Veteran Owned Business
- Micro, Mini or Small Business (as defined by RCW 39.26.010(16),(17) or (22))

Exhibit A Statement of Work

Due to recent potential fraudulent activity identified in the Unemployment Insurance (“UI”) program (the “Event”), ESD is embarking on an investigation of the event, as well as a security assessment of the program to understand the security posture of the UI system (“the in-scope system”) and related controls.

The purpose of this engagement is to identify security vulnerabilities in the systems and supporting control processes, identify misalignment with leading practice security standards (e.g., NIST 800-53) and identify actionable steps to remediate control vulnerabilities.

The scope of the assessment shall be ESD’s unemployment insurance process and supporting technology controls, with ESD’s cybersecurity policies, procedures and standards used as the framework for the assessment.

This assessment will include:

- Assessment of the cybersecurity, UI business process and technology controls related to the fraudulent claims event;
- Diagnosis of issues and recommendation on corrective action; and
- Cybersecurity breach compromise assessment.

Assessment of the cybersecurity, UI business process and technology controls related to the fraudulent claims event

Key activities include:

1. Meet with key stakeholders, review program process & control documentation and recent program changes for a detailed understanding of recent changes to the environment.
2. Conduct process, control, and data/information analysis to identify scope of the fraudulent claims event, potential root cause(s), and contributing factors.

Diagnosis of issues and recommendation on corrective action

Key activities include:

1. Identify, document, and draft recommendations to address process, control, and cyber gaps
2. Socialize draft report with ESD, incorporate feedback, and finalize incident assessment report

Cybersecurity breach compromise assessment

Key activities include:

1. Deploy network and endpoint sensors into the environment
2. Conduct cyber hunting and digital forensic activities to identify indicators of compromise, including performing analytics and correlation of network, SIEM, endpoint, and cyber threat intelligence data to identify and investigate activities, patterns, and behaviors indicative of potential past or present malicious cyberattacks/actions; or indications of lateral movement either to or from the in-scope systems/network segment

3. Summarize observations and findings, socialize report with ESD, incorporate feedback, and finalize report.

Responsibilities

This project will be accomplished by Contractor staff with support and participation of ESD staff. Additional details about responsibilities for specific deliverables and milestones will be detailed in a later section of this document.

Each Party's Responsibilities Under this Contract

ESD	Contractor
Provide access to personnel, systems and information necessary to the scope of the assessment (note the disclaimer on staff/RSS availability based on workload)	Develop and manage a detailed project schedule including in-scope phases and activities.
Work with Contractor to obtain Buy-in on the plan (approved by Sponsor & SMT)	Weekly Status Reports (and Status Meetings) plus daily email.
Review and approve Deliverables based on established deliverable acceptance criteria	Complete Incident Assessment Report
	Complete Cybersecurity Breach Compromise Assessment Report

Project Schedule & Deliverables

Deliverables	Estimated Due Date
Incident Assessment Report	6/26/20
Cybersecurity Breach Compromise Assessment Report	6/26/20

Project Delivery Acceptance

Deliverable Acceptance

ESD shall approve each Deliverable that conforms in all material respects to the requirements therefore set forth in this SOW. Approval of a Deliverable shall be deemed given by ESD if ESD has not delivered to Contractor a notice that such Deliverable does not conform with the foregoing within five days of delivery.

Project Monitoring and Oversight

Contractor Reporting

Expectations

As this is expected to be a short and high-profile engagement, ESD will expect weekly status reports from the Contractor. These reports will be produced weekly and will be reviewed at a weekly status meeting

(required). In addition, ESD expects the Contractor to provide daily email updates. to the ESD Contract Manager to alert the agency of any potential impacts to the delivery schedule.

Project Reporting Timelines

ESD and the Contractor will work together to determine the best date for weekly reporting. This is negotiable based on the Project, Contractor and Schedule constraints. ESD will expect the Contractor to provide a weekly status report every week on the same day of the week throughout the run of the engagement.

Project Reporting Requirements

Weekly Status reports will include (at minimum):

- High-level current state of the work effort (e.g., on track, behind).
- Planned activities/scheduled for the week being reported.
- Activities completed during the week being reported.
- Risk Log items w/Status of current/active Risks.

Daily Status reports will include (at minimum):

- Daily email updates to the ESD Contract Manager to ensure the Contractor is on track and alert the agency of any potential impacts to the delivery schedule.

Project Quality Oversight

Based on the scale of this effort, external/project QA is not required. Project and Deliverable Quality will be monitored and control by the Project Team.

Project Closeout

At the conclusion of this project, Contractor shall return to ESD all information provided by ESD to Contractor during the project.

Assumptions

- ESD will be the central point of contact for Contractor to work with regarding the Services, and will manage internal coordination of IT resource discussions, information and data requests.
- ESD will provide the appropriate operational and technological resources, documentation, and information required to complete the Services under this statement of work within two business days of request.
- ESD will provide Contractor with remote access, physical access and documentation access privileges within two days of required in order to meet delivery objectives.
- ESD remains responsible for evaluating recommendations made by Contractor during the course of this engagement and determining implementation strategy. Contractor is not responsible for implementation of recommendations.
- Unless otherwise mutually agreed in writing by the parties, all work under this SOW will be performed remotely.
- Due to the complexities associated with compliance with state, national, and international laws, regulations, and standards, Contractor does not and will not represent, warrant, or provide any assurances that ESD's business processes and systems or any other business processes and systems (including, without limitation, the business processes and systems of ESD's Contractors, service

providers, customers, unconsolidated subsidiaries or joint ventures in which ESD has an interest, or other third parties) are in compliance with state, national, and international laws, regulations, and standards, or that ESD's plans or the plans of any third parties to deal with compliance with privacy regulations and standards are sufficient to address and correct any compliance problems that may arise, or with respect to any other matters relating to compliance with privacy laws and regulations.

- ESD understands that based on many factors, including system settings and logging information availability, it may not be possible to identify the source of the compromise or the precise number of records affected.
- ESD shall provide Contractor with personally identifiable information or any other sensitive information only to the minimum extent necessary for Contractor perform the services.
- Contractor personnel will perform all Services as a non-testifying consultant. In the event ESD desires to engage Contractor personnel to testify as an expert witness, both Contractor and ESD must sign a mutually agreeable, separate, written agreement.
- Cybersecurity breach compromise assessment assumes an on-premise infrastructure of around 250 Servers, 2000 workstations in offices, 700 remote workstations, and 10 network egress points. A change order to address pricing impacts will be necessary if the aggregate across all agents (across all of services, workstations in offices, remote workstations and network egress points) exceeds 5000.
- In the event of any delay encountered that is beyond the reasonable control of Contractor, failure by ESD to meet its obligations under this SOW, failure of an assumption listed in this SOW, or change in law, rules or policies, the parties shall adjust this SOW to address the adverse impact of such event on Contractor.
- ESD will be primarily responsible for deploying network and endpoint sensors with support provided by Contractor.
- To the extent that this SOW is federally funded, the parties agree that no additional terms, conditions, restrictions or other requirements associated with such funding apply to the scope of work under this SOW.
- Contractor will complete its obligation under this SOW with the submission of the Incident Assessment Report and the Cybersecurity Breach Compromise Assessment Report Deliverables. ESD may request additional scope via a Change Order through the Period of Performance end date.
- All Services and Deliverables shall be solely for ESD's benefit and are not intended to be relied upon by any person or entity other than ESD. ESD shall not disclose the Services or Deliverables, or refer to the Services or Deliverables in any communication, to any person or entity other than ESD except as required by law or to the extent included within ESD-created materials that do not in any way, expressly or by implication, attribute such materials to Contractor.
- Contractor will not staff this project with any employees who were directly involved in the development and testing of the Paid Family and Medical Leave system.

Exhibit B
Certification Regarding Debarment and Suspension

APPENDIX A TO TITLE 29, PART 98 - CERTIFICATION REGARDING DEBARMENT AND SUSPENSION
Certification for Contracts, Grants, Loans, and Cooperative Agreements

1. The undersigned (i.e., the Contractor signatory) certifies, to the best of his or her knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three-year period preceding this proposal been convicted 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;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(B) of this certification; and,
 - D. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation of this proposal (or plan).

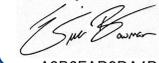
DELOITTE & TOUCHE, LLC

Name of Contractor – Print full legal entity name of organization

Signature of authorized person

Eric Bowman

Principal signed by:



A3B6FAD9DA4D4FF...

Date

925 Fourth Avenue, Suite 3300
Seattle, WA 98104

5/21/2020

City and state where signed

EXHIBIT C
Data Security and Reporting Requirements

1. PURPOSE

The purpose of this Exhibit is to set out the terms and conditions under which ESD will:

- 1.1. Share Confidential UI Data with Contractor (hereinafter, referred to as “Contractor”) consistent with its obligations under state statute (Title 50A RCW).
- 1.2. Share Confidential (non-UI) Information with Contractor.
- 1.3. Define the safeguards against unauthorized use and re-disclosure of any Confidential Information, including Confidential UI Data, by Contractor and ascribe the penalties of such unauthorized disclosure.

2. STATUTORY AUTHORITY FOR DISCLOSURE

RCW 50.13.080 enables ESD to disclose confidential information to a private organization and its agents when the disclosure is necessary to permit private contracting parties to assist in the operation, management, and implementation of the program in instances where certain departmental functions may be delegated to private parties to increase ESD’s efficiency or quality of service to the public. Contractor shall use the information or records solely for the purpose for which the information was disclosed and shall be bound by the same rules of privacy and confidentiality as ESD employees, which are set forth in this Exhibit.

3. MANDATORY NON-DISCLOSURE AGREEMENTS

Contractor agrees that all their personnel performing the services under the Contract who will have access to the Confidential Information provided by ESD (“Authorized Users”) will sign a Nondisclosure statement, identical to that in Exhibit D Nondisclosure Statement. The statement is consistent with the Title 50 RCW and the terms and conditions of this Exhibit. No Confidential Information may be released or viewed by any Authorized User until ESD receives the completed Nondisclosure Statement for that individual.

4. DATA ELEMENTS TO BE DISCLOSED

- 4.1. ESD shall allow Contractor direct access into ESD’s network and in-scope IT systems by way of ESD issued credentials (user IDs and passwords) for Authorized Users in compliance with ESD Policy and this Exhibit.
- 4.2. Contractor will be granted access to the ESD Unemployment Tax and Benefits System (UTAB) benefit system. UTAB is the state’s information technology system for paying unemployment insurance (UI) benefits to workers who lose their job through no fault of their own. No Confidential UI Data shall be extracted from the UTAB System by Contractor.
- 4.3. The Confidential UI Data elements Contractors will have access to in the UTAB System include: Intake & Adj, and Base UTAB security permissions.
- 4.4. ESD network and system credentials (passwords and User IDs) will be provided only after ESD receives a signed NDA from the Authorized User.
- 4.5. Contractor shall notify ESD promptly, and ESD will take all measure to remove the user ID and password for any Authorized User who is no longer employed, on probation or extended leave, or no longer needs access.

5. FREQUENCY OF DATA TRANSFER AND SECURITY

- 5.1. ESD shall provide Contractor with online access to Confidential Information in ESD systems pursuant to the terms of this Exhibit. This Exhibit provides the terms, conditions, and Contractor responsibilities for access by Contractor. Conditions for the access, use, transmission, and disclosure of Confidential Information and/or

Confidential UI Data are provided herein to ensure that confidentiality of the data is protected in accordance with law.

6. CERTIFICATION(S)

6.1. Contractor must demonstrate that non-disclosure agreements have been obtained and provided to ESD for all Authorized Users.

7. LIMITATION ON ACCESS AND USE

Contractor agrees to the following limitations on the access and use of the Confidential Information provided by ESD:

7.1 Access is permissible only during the Period of Performance of the Contract and will be terminated immediately upon Contract Termination. The information provided by ESD will remain the property of ESD and will be returned to ESD according to the following procedures when the work for which the information was required, has been completed:

7.1.1 All Confidential Information will be purged from mainframe systems and individual Personal Computers (PC) under Contractor's control.

7.1.2 All paper or compact disc copies under Contractor's control with Confidential Information will be shredded to a size no larger than 1/8 by 1 1/8 inch size in a crosscut shredder or deposited into a locked shredder bin to be shredded by a company contractually bound to maintain confidentiality of materials being shredded.

7.1.3 Contractor shall be responsible for the destruction of Confidential Information under its control after the work for which the data was required, as fully described in the Contract, has been completed. Contractor shall inform ESD as to the method and frequency of which Confidential Information is destroyed.

7.2 The Confidential Information provided by ESD shall be accessed only for the limited purposes of carrying out activities pursuant to this Contract as described herein and in compliance with state and federal law as applicable to Contractor in its performance under the Contract.

7.3 The Confidential Information provided by ESD will not be duplicated, copied, shared, stored outside of the ESD System or re-disclosed without the written authority of ESD, including but not limited to screenshots, photos from mobile devices of the information, or other duplication.

7.4 Contractor shall not use the Confidential Information provided for any purpose not specifically authorized under the Contract.

7.5 Contractor shall protect the confidentiality of the Confidential Information as required by the laws cited in this Exhibit that are applicable to Contractor in its performance under the Contract.

7.6 If Contractor has reason to believe that Confidential Information under Contractor's control may have been accessed or disclosed without proper authorization and contrary to the terms of this Exhibit, or applicable law (a "security breach"), Contractor will, as soon as is practical but no later than 48 hours after discovery give ESD notice, and Contractor shall take actions to remediate the root cause of the security breach. Contractor shall provide reasonably detailed summary information regarding the security breach, including, to the extent known, the nature of the unauthorized activity, names of individuals affected, work locations where the incident occurred, and the action taken by Contractor in reasonably sufficient detail to enable ESD to conduct its own investigation if necessary. In the event ESD does believe it needs to conduct its own investigation, Contractor will cooperate in the investigation by: (i) reasonably assisting with the investigation; (ii) facilitating interviews with Contractor's relevant personnel involved in the matter; and (iii) making available relevant information required to comply with applicable law as

reasonably requested by ESD. To the extent ESD is required by applicable law to notify affected individuals as a result of a security breach attributable to Contractor's breach of the terms of this Exhibit, Contractor may be required by ESD to reimburse ESD for its reasonable out-of-pocket costs to provide such notice to individuals whose personal information may have been improperly accessed or disclosed.

- 7.7 Contractor shall take precautions designed to ensure that only Authorized Users are given access to Confidential Information under Contractor's control.
- 7.8 Further any unauthorized release of Confidential Information may subject the person, government agency, organization to a civil penalty as stated in RCW 50.13.080, currently up to twenty thousand dollars in 2018 and annually adjusted by the department based on changes in the United States consumer price index for all urban consumers. Other applicable sanctions under state and federal law may also apply.

8. PHYSICAL SAFEGUARDS

Contractor agrees to the following minimum safeguards for the information provided by ESD that is under Contractor's control as follows:

- 8.1 Access to the Confidential Information provided by ESD will be restricted to only those Authorized Users who need it to perform their official duties in the performance of the tasks under the Contract.
- 8.2 The Confidential Information will be protected in a commercially reasonable manner that prevents unauthorized persons from retrieving the information by means of computer, remote terminal or other means.
- 8.3 Contractor shall take precautions designed to ensure that only Authorized Users are given access to Confidential UI Data. Electronic access is to be authorized using hardened passwords that are changed at least every 90 days.
- 8.4 Contractor shall instruct all Authorized Users regarding the confidential nature of the information, the requirements of this Exhibit and its clauses, and the sanctions specified in Title 50 RCW and other applicable federal and state laws against unauthorized disclosure of Confidential Information covered by this Exhibit.
- 8.5 Contractor shall only access the Confidential Information through ESD authorized and provided access, including Virtual Private Network (VPN) access to ESD's network and systems, or other methods as approved by ESD. Such Data will not be accessed via another method and/or device, including via 3rd party "cloud" service providers, cell phones or public wireless hotspots.

9 REDISCLOSURE OF INFORMATION

- 9.1 Rediscovery of Confidential Information received from ESD is prohibited by law unless expressly permitted by ESD.
- 9.2 Parties or individuals redisclosing Confidential UI Data in violation of RCW 50.13.110 are subject to civil penalty. ESD may pursue criminal charges against individuals engaged in unauthorized redisclosure of Confidential UI data.
- 9.3 Reserved.

10 DATA CLASSIFICATION

10.1 According to the Office of the Chief Information Officer (OCIO) Standard No.141.10, Section 4.2, agencies must classify data into categories based on the sensitivity of the data. Contractor agrees that the Confidential Information within the scope of this agreement is classified as:

Category 4 – Confidential Information Requiring Special Handling.

Confidential information requiring special handling is information that is specifically protected from disclosure by law and for which: Especially strict handling requirements are dictated, such as by statutes, regulations, or agreements.

11 TERMINATION OF ACCESS

11.1 ESD may at its discretion disqualify any Authorized User by Contractor from gaining access to Confidential Information Notice of termination of access to Confidential Information will be by written notice and become effective upon receipt by Contractor. Termination of access of one individual by ESD does not affect other Authorized Users under this Exhibit.

11.2 Immediately following termination or expiration of the Contract for any reason, Contractor shall cease any and all use, access and distribution of the Confidential Information, information and services derived therefrom, related documentation, and all other information and materials provided by ESD to Contractor under the Contract, and Contractor shall at its sole cost, return, delete, or destroy Confidential Information then in its possession or under its control including, without limitation, originals, and copies of such UI Confidential Data and provide certification thereof all of the foregoing items and materials to ESD within 60 days of such termination or expiration. Notwithstanding anything herein to the contrary, Contractor shall have the right to retain copies of such Confidential Information and any summaries, analyses, notes, or extracts prepared by Contractor which are based on or contain portions of such Confidential Information to the extent required by applicable law, regulations, professional standards or for archival purposes, provided that Contractor retains such copies in accordance with its confidentiality obligations hereunder.

11.3 Confirmation of Destruction. Contractor agrees to confirm that Confidential Information has not been downloaded or stored out of the ESD network or ESD System within 60 days of termination except as otherwise permitted by the Contract or this Exhibit. The failure to follow this section may subject Contractor to the penalties stated herein.

12 SURVIVAL OF TERMS

The provisions contained in the “Termination of Access”, “Limitation on Access and Use”, “Physical Safeguards”, and “Redisclosure of Information” Sections of this Exhibit, ESD Data Security and Reporting Requirements, shall survive the termination of the Contract, for any reason, to the extent Contractor retains Confidential Information.

13 EXPORT

Contractor agrees not to export, report, or transfer, directly or indirectly, Confidential UI Data, or any products utilizing such Confidential UI Data, in violation of United States export laws or regulations. Without limiting the foregoing, Contractor agrees that (a) it is not, and is not acting on behalf of, any person who is a citizen, national, or resident of, or who is controlled by the government of any country subject to a comprehensive embargo under U.S. sanctions and export controls (currently Crimea, Cuba, Iran, North Korea, and Syria), (b) is not, and is not acting on behalf of, any person or entity listed on a relevant list of persons to whom export is prohibited to U.S. Persons (e.g., the U.S. Treasury Department list of Specially Designated Nationals and

Blocked Persons, the U.S. Commerce Department Denied Persons List or Entity List, etc.) and (c) it will not use any Confidential Information for, and will not permit any Confidential Information to be used for, any purpose prohibited by law applicable to Contractor in its performance of the services.

14 **DISCLAIMER**

Exchange of such information pursuant to the Contract is not a public disclosure under 42.56 RCW.

15 **SUBPOENA**

Should Contractor receive a request or subpoena that would, fairly construed, seek production of Confidential Information that it received pursuant to this Contract, Contractor shall promptly notify ESD that such a request or subpoena has been received if permitted by law, so that the ESD may file any appropriate objections or motions, or take any other appropriate steps, to preclude or condition the production of such information.

Exhibit D
Non-Disclosure Agreement

I, the undersigned individual will be acting as an employee or subcontractor for the Contractor on the Contract listed below.

I. Pursuant to my capacity in this role, I understand the following:

As an employee or subcontractor of the ESD contractor, I may be given access to records or information that is deemed private and confidential by statute, contract, or other forms of written notice.

Confidential information includes, but is not limited to:

- Personally identifiable information (name, address, SSN, DOB, etc.),
- employee's wages or hours, unemployment insurance benefit records,
- paid family and medical leave records,
- standard industrial classification (sic) codes of individual employers,
- information provided by other entities for cross-matching/fraud purposes or other Paid Family and Medical Leave business purpose,
- security/technical design information regarding any of ESD's information technology systems.

II. By signing this Non-Disclosure Agreement, I agree that I:

1. Will access, use, and disclose Confidential Information only in accordance with the terms of this Agreement, the contract between my employer and ESD and consistent with applicable statutes, regulations, and policies.
2. Have an authorized business requirement to access and use the Confidential Information.
3. Will not use or disclose any Confidential Information gained by reason of this Agreement for any commercial or personal purpose, or any other purpose that is not directly connected with this Agreement or the contract between my employer and ESD.
4. Will not use my access to look up or view information about family members, friends, the relatives or friends of any persons who are not directly related to my assigned job duties.
5. Will not discuss Confidential Information in public spaces in a manner in which unauthorized individuals could overhear and will not discuss Confidential Information with unauthorized individuals, including spouses, domestic partners, family members, or friends.
6. Will protect all Confidential Information against unauthorized use, access, disclosure, or loss by employing reasonable security measures, including physically securing any computers, documents, or other media containing Confidential Information and viewing Confidential Information only on secure workstations in non-public areas.
- 7.
8. Will access, use or disclose only the "minimum necessary" Confidential Information required to perform my assigned job duties.
9. Will not distribute, transfer, or otherwise share any software with anyone.



P.O. BOX 9046, OLYMPIA, WASHINGTON 98507-9046

- 10. Will forward any requests that I may receive to disclose Confidential Information to my supervisor for resolution and will immediately inform my supervisor of any actual or reasonably suspected security breaches involving Confidential Information, or of any access to or use of Confidential Information by unauthorized users.
- 11. Understand at any time, ESD may audit, investigate, monitor, access, and disclose information about my use of the Confidential Information and that my intentional or unintentional violation of the terms of this Agreement may result in revocation of privileges to access the Confidential Information, disciplinary actions against me, or possible civil or criminal penalties or fines under RCW 50.13 or other applicable state or federal law.
- 12. Understand that my assurance of confidentiality and these requirements will continue and do not cease at the time I terminate my relationship with the company.

In signing this form, I state that I have read and understand the above terms of this Non-Disclosure Agreement.

Name (print)

Signature

Contract No. **K6690**

Date

Deloitte & Touche, LLP

Contractor Name